

EXHIBIT 4
FILED UNDER SEAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA, :
et al., :
 :
Plaintiffs :
 :
v. : No. 1:23-cv-00108
 :
GOOGLE, LLC, :
 :
Defendants. :

Tuesday, August 15, 2023

Video Deposition of ALLEN OWENS,
taken at the Law Offices of Paul, Weiss, Rifkind,
Wharton & Garrison LLP, 2001 K St NW, Washington,
DC, beginning at 9:37 a.m. Eastern Standard Time,
before Ryan K. Black, Registered Professional
Reporter, Certified Livenote Reporter and Notary
Public in and for the District of Columbia

Job No. CS6037511

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>3 ANTITRUST DIVISION</p> <p>4 BY: JIMMY MCBIRNEY, ESQ</p> <p>5 CHASE PRITCHETT, ESQ</p> <p>6 ALVIN CHU, ESQ</p> <p>7 MARK SOSNOWSKY, ESQ - Via Zoom</p> <p>8 KATHERINE CLEMONS, ESQ - Via Zoom</p> <p>9 JULIA TARVER-WOOD, ESQ - Via Zoom</p> <p>450 5th Street, N W</p> <p>Washington, DC 20530</p> <p>202 514 2414</p> <p>jimmy mcbirney@usdoj gov</p> <p>chase pritchett@usdoj gov</p> <p>alvin chu@usdoj gov</p> <p>mark sosnowsky@usdoj gov</p> <p>katherine clemons@usdoj gov</p> <p>julia tarver-wood@usdoj gov</p> <p>Representing - The United States of America</p> <p>PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP,</p> <p>BY: MARTHA L GOODMAN, ESQ</p> <p>LEAH HIBBLER, ESQ</p> <p>2001 K St NW,</p> <p>Washington, DC</p> <p>202 223 7341</p> <p>mgoodman@paulweiss com</p> <p>lhibbler@paulweiss com</p> <p>Representing - Google LLC</p> <p>ALSO PRESENT:</p> <p>Orson Braithwaite - Legal Videographer</p> <p>Ann Bruck - Department of the Navy</p>	<p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: Good morning. We're</p> <p>2 going on the record at 9:37 a m. on August 15th,</p> <p>3 2023. Please note that the microphones are</p> <p>4 sensitive and may pick up whispering and private</p> <p>5 conversations. Please mute your phones at this</p> <p>6 time. Audio and video recording will continue to</p> <p>7 take place unless all parties agree to go</p> <p>8 off the record.</p> <p>9 This is Media Unit 1 of the</p> <p>10 video-recorded deposition of Mr. Allen Owens</p> <p>11 in the matter of United States, et al., versus</p> <p>12 Google LLC, filed in the United States District</p> <p>13 Court, Eastern District of Virginia, Alexandria</p> <p>14 Division. Case Number 1:23-cv-00108-LMB-JFA.</p> <p>15 My name is Orson Braithwaite,</p> <p>16 representing Veritext Legal Solutions, and I'm</p> <p>17 the videographer. The court reporter is Ryan</p> <p>18 Black from the firm Veritext Legal Solutions.</p> <p>19 Counsel will now state their appearances</p> <p>20 and affiliations for the record.</p> <p>21 MS. GOODMAN: Martha Goodman of the law</p> <p>22 firm Paul Weiss on behalf of Google LLC, and I'm</p> <p>23 joined by my colleague Leah Hibbler.</p> <p>24 MR. MCBIRNEY: Jim McBirney on behalf of</p> <p>25 the Department of Justice on behalf of the United</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 TESTIMONY OF: ALLEN OWENS PAGE</p> <p>3 By Ms. Goodman.....6</p> <p>4 EXHIBITS</p> <p>5 EXHIBIT DESCRIPTION PAGE</p> <p>6 Exhibit 52 a document Bates Numbered</p> <p>NAVY-ADS174029 through</p> <p>NAVY-ADS174060.....62</p> <p>7 Exhibit 53 a document Bates Numbered</p> <p>NAVY-ADS256935 through</p> <p>NAVY-ADS257031.....97</p> <p>8 Exhibit 54 a document Bates Numbered</p> <p>NAVY-ADS12756 through</p> <p>NAVY-ADS12800.....102</p> <p>9 Exhibit 55 a document Bates Numbered</p> <p>NAVY-ADS241136 through</p> <p>NAVY-ADS241143.....111</p> <p>10 Exhibit 56 a document Bates Numbered</p> <p>NAVY-ADS15543 through</p> <p>NAVY-ADS15622.....130</p> <p>11 Exhibit 57 a document Bates Numbered</p> <p>NAVY-ADS19114 through</p> <p>NAVY-ADS19182.....146</p> <p>12 Exhibit 58 a document Bates Numbered</p> <p>NAVY-ADS45197 through</p> <p>NAVY-ADS45206.....172</p> <p>13 Exhibit 59 a document Bates Numbered</p> <p>NAVY-ADS103897 through</p> <p>NAVY-ADS103900.....182</p> <p>14 Exhibit 60 a document Bates Numbered</p> <p>NAVY-ADS28530 through</p> <p>NAVY-ADS28531.....187</p>	<p style="text-align: right;">Page 5</p> <p>1 States and the witness.</p> <p>2 MR. PRITCHETT: Chase Pritchett on</p> <p>3 behalf of the United States.</p> <p>4 MR. CHU: Alvin Chu on behalf of the</p> <p>5 United States.</p> <p>6 MS. GOODMAN: And then will any</p> <p>7 attorneys appearing remotely please state your</p> <p>8 presence.</p> <p>9 MR. SOSNOWSKY: Mark Sosnowsky, U.S.</p> <p>10 Department of Justice.</p> <p>11 MS. CLEMONS: Katherine Clemons,</p> <p>12 Department of Justice.</p> <p>13 MS. GOODMAN: Is there any --</p> <p>14 MS. BRUCK: Ann Bruck, Department of</p> <p>15 Navy.</p> <p>16 THE VIDEOGRAPHER: We have a Ms. Wood.</p> <p>17 MS. TARVER-WOOD: Yes. This is Julia</p> <p>18 Tarver-Wood from DOJ. I'm not officially</p> <p>19 entering an appearance. I'll be in and out</p> <p>20 throughout the day.</p> <p>21 THE VIDEOGRAPHER: Thank you. Will the</p> <p>22 court reporter please swear in the witness?</p> <p>23 * * *</p> <p>24 Whereupon --</p> <p>25 ALLEN OWENS,</p>

<p style="text-align: right;">Page 14</p> <p>1 A. Yes.</p> <p>2 Q. Was there anybody else in person?</p> <p>3 A. No.</p> <p>4 Q. Did anybody -- did Ms. Ann attend by</p> <p>5 phone or virtually this meeting on Monday?</p> <p>6 A. Yes.</p> <p>7 Q. Was she present the whole time?</p> <p>8 A. I'm not certain.</p> <p>9 Q. Okay. For what period of time are you</p> <p>10 certain that Ms. Ann was in attendance at the</p> <p>11 meeting on Monday?</p> <p>12 A. There were multiple technical glitches,</p> <p>13 so, again, I'm -- I'm not certain.</p> <p>14 Q. How about on Sunday, did Ms. Ann attend</p> <p>15 the meeting all of Sunday?</p> <p>16 A. Again, I'm not certain on that either,</p> <p>17 for the same reason.</p> <p>18 Q. Okay. Did you review documents on</p> <p>19 Monday?</p> <p>20 A. Yes.</p> <p>21 Q. Approximately how many?</p> <p>22 A. I -- I don't recall an exact number of</p> <p>23 documents.</p> <p>24 Q. Did any of the documents that you</p> <p>25 reviewed help you remember things that you hadn't</p>	<p style="text-align: right;">Page 16</p> <p>1 with anybody else?</p> <p>2 A. No.</p> <p>3 Q. So you have not discussed the fact of</p> <p>4 your deposition with your supervisor, for</p> <p>5 example?</p> <p>6 A. The fact of my deposition, yes, for</p> <p>7 logistics scheduling purposes.</p> <p>8 Q. Okay. So who have you discussed the</p> <p>9 fact of your deposition with, if anyone?</p> <p>10 A. Sure. It would be my immediate chain of</p> <p>11 command at Navy Recruiting Command.</p> <p>12 Q. And who is your immediate chain of</p> <p>13 command at Navy Recruiting Command?</p> <p>14 A. It would be the chief of staff, Captain</p> <p>15 Reyes; the executive director, Dr. Sullivan; and</p> <p>16 the Admiral, Lex Walker.</p> <p>17 Q. And you spoke with each of these</p> <p>18 individuals about the fact of your deposition;</p> <p>19 is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And what did you tell them?</p> <p>22 A. That I would be out of office.</p> <p>23 Q. What did they say in response?</p> <p>24 A. They understood.</p> <p>25 Q. Do they know why you are -- for what</p>
<p style="text-align: right;">Page 15</p> <p>1 remembered prior to reading the document?</p> <p>2 A. No more so than anytime you review</p> <p>3 anything. There was nothing forgotten that was</p> <p>4 then remembered.</p> <p>5 Q. Okay. And on Sunday approximately how</p> <p>6 many documents did you review?</p> <p>7 A. I don't recall an exact number.</p> <p>8 Q. Can you give an estimate of the number</p> <p>9 of documents you reviewed on Sunday or Monday?</p> <p>10 A. I can't. I -- I don't recall an exact</p> <p>11 number, so I don't want to guess.</p> <p>12 Q. Was it more than a hundred documents --</p> <p>13 A. No.</p> <p>14 Q. -- that you reviewed on Sunday or</p> <p>15 Monday?</p> <p>16 A. No.</p> <p>17 Q. Okay. Was it more than 50 documents</p> <p>18 that you reviewed on Sunday or Monday?</p> <p>19 A. I don't recall.</p> <p>20 Q. So your best recollection sitting here</p> <p>21 today is somewhere less than a hundred but you</p> <p>22 can't specify any further; is that correct?</p> <p>23 A. That is correct.</p> <p>24 Q. Okay. Other than the counsel you have</p> <p>25 identified, have you discussed your deposition</p>	<p style="text-align: right;">Page 17</p> <p>1 purpose you are out of office?</p> <p>2 A. For the deposition.</p> <p>3 Q. Do they know what the deposition is</p> <p>4 connect -- in connection with?</p> <p>5 A. I'm not certain what they do or don't</p> <p>6 know, other than what I've told them.</p> <p>7 Q. Okay. And did you tell them what the</p> <p>8 purpose of the deposition was?</p> <p>9 A. In very general terms.</p> <p>10 Q. And so what did you tell them in very</p> <p>11 general terms that the purpose of this deposition</p> <p>12 was?</p> <p>13 A. I don't recall specifically what I told</p> <p>14 them.</p> <p>15 Q. How about generally, as you -- as you</p> <p>16 said, you recall in general -- you said something</p> <p>17 in general terms?</p> <p>18 A. That it involved Google and Department</p> <p>19 of Justice and they needed my information.</p> <p>20 Q. Anything else that you told anybody in</p> <p>21 your chain of command about the purpose of this</p> <p>22 deposition?</p> <p>23 A. Not that I recall.</p> <p>24 Q. What did they say in response?</p> <p>25 A. That they understood.</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 Q. Did you say anything more about how</p> <p>2 -- what the -- what information you needed to</p> <p>3 provide in this deposition that involved Google</p> <p>4 and the Department of Justice?</p> <p>5 MR. MCBIRNEY: Objection. Asked and</p> <p>6 answered.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. You may answer.</p> <p>9 A. I don't recall any additional</p> <p>10 information that I may have given them at this</p> <p>11 time.</p> <p>12 Q. Okay. Did you say anything about it</p> <p>13 being an antitrust lawsuit?</p> <p>14 A. I don't recall.</p> <p>15 Q. Aside from the fact of your deposition,</p> <p>16 is anybody in your chain of command aware of the</p> <p>17 Navy's involvement in this lawsuit?</p> <p>18 MR. MCBIRNEY: Objection; foundation.</p> <p>19 THE WITNESS: I don't understand the</p> <p>20 question. Can you clarify?</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. The individuals you've identified in</p> <p>23 your chain of command, with respect to those</p> <p>24 individuals, to your knowledge, do they know</p> <p>25 about the Navy's involvement in this lawsuit?</p>	<p style="text-align: right;">Page 20</p> <p>1 frame. Was it the fall? Winter? Spring?</p> <p>2 Was it April? May? June? Was it 2023? Was</p> <p>3 it 2022? What's your best recollection of the</p> <p>4 approximate time that you recall speaking with</p> <p>5 individuals in your chain of command about your</p> <p>6 participation in this lawsuit?</p> <p>7 MR. MCBIRNEY: Objection to the form of</p> <p>8 the question.</p> <p>9 THE WITNESS: My best recollection is</p> <p>10 that it was earlier this year.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Would it have been as early as January</p> <p>13 2023?</p> <p>14 A. I don't recall. I don't recall how</p> <p>15 early it was.</p> <p>16 Q. Okay. Going back to the first time you</p> <p>17 recall speaking with anybody in your chain of</p> <p>18 command about your participation in this lawsuit,</p> <p>19 what was discussed?</p> <p>20 MR. MCBIRNEY: Objection; foundation.</p> <p>21 THE WITNESS: I don't recall the</p> <p>22 particulars of what was discussed.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. How about the generals of what was</p> <p>25 discussed?</p>
<p style="text-align: right;">Page 19</p> <p>1 MR. MCBIRNEY: Same objection.</p> <p>2 THE WITNESS: Yeah. I'm -- I'm not</p> <p>3 certain what they do or don't know.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. Have you discussed fact of this</p> <p>6 lawsuit with anybody in your chain of command?</p> <p>7 MR. MCBIRNEY: Objection. Asked and</p> <p>8 answered.</p> <p>9 THE WITNESS: Yeah. As I stated</p> <p>10 earlier, I spoke to them in general terms about</p> <p>11 what I was going to do.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. And when did you speak with the</p> <p>14 individuals in your chain of command about what</p> <p>15 you were going to do?</p> <p>16 A. At various times. I don't recall exact</p> <p>17 dates and times.</p> <p>18 Q. How about generally? Can you describe</p> <p>19 generally when you spoke with individuals in your</p> <p>20 chain of command about your participation in this</p> <p>21 lawsuit?</p> <p>22 A. I can't give any specific dates, because</p> <p>23 I -- I don't recall specific dates.</p> <p>24 Q. I'm not asking for specific dates, sir.</p> <p>25 I'm asking for general recollection of the time</p>	<p style="text-align: right;">Page 21</p> <p>1 A. I -- I don't recall the details of what</p> <p>2 was discussed either in general terms or direct</p> <p>3 terms.</p> <p>4 Q. So other than the fact of this lawsuit,</p> <p>5 can you say anything about what you discussed</p> <p>6 with anybody in your chain of command about your</p> <p>7 participation in this lawsuit?</p> <p>8 A. I cannot.</p> <p>9 Q. Okay. Other than individuals in your</p> <p>10 chain of command, is there anybody else that you</p> <p>11 have discussed this lawsuit with, other than</p> <p>12 lawyers?</p> <p>13 A. Yes.</p> <p>14 Q. Who?</p> <p>15 A. In the gathering of -- in the gathering</p> <p>16 of information, at the direction of counsel, I</p> <p>17 spoke with a few members of the ad agency, the</p> <p>18 VMLY&R.</p> <p>19 Q. Which members of the ad agency VMYLR</p> <p>20 [sic] did you speak with?</p> <p>21 A. Sandra Mouio. That's the one I can</p> <p>22 remember directly having a conversation with.</p> <p>23 Q. Anybody else that you remember having</p> <p>24 any conversation with at the ad agency?</p> <p>25 A. Not that I recall.</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. How about Chris Edmondson?</p> <p>2 A. Potentially Chris Edmondson.</p> <p>3 Q. Why did you say potentially?</p> <p>4 A. Because he's the supervisor of the Navy</p> <p>5 account, so I may have spoke to him before I</p> <p>6 spoke to Sandra.</p> <p>7 Q. And does Sandra work for VMYLR [sic] or</p> <p>8 a different agency?</p> <p>9 A. She works under VMLY&R, but I believe</p> <p>10 her company is Wavemaker.</p> <p>11 Q. What did you speak about with Sandra in</p> <p>12 connection with this lawsuit?</p> <p>13 MR. MCBIRNEY: Caution the witness not</p> <p>14 to disclose communications that were at the</p> <p>15 direction of counsel.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. You may answer.</p> <p>18 MR. MCBIRNEY: If you can answer the</p> <p>19 question without disclosing communications or</p> <p>20 actions taken at the direction of counsel, you</p> <p>21 can answer the question. If you can't, then I</p> <p>22 instruct you not to answer.</p> <p>23 THE WITNESS: Sure. Can you repeat the</p> <p>24 question then?</p> <p>25 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 24</p> <p>1 communications?</p> <p>2 A. I'm going to follow the direction of</p> <p>3 counsel.</p> <p>4 Q. My question is a different one, --</p> <p>5 A. I'm sorry.</p> <p>6 Q. -- which is whether you can answer</p> <p>7 the question I posed without relying on any</p> <p>8 attorney-client communications?</p> <p>9 A. I cannot.</p> <p>10 Q. Okay. So prior -- have you ever</p> <p>11 received any training on the attorney-client</p> <p>12 privilege?</p> <p>13 A. Not that I recall.</p> <p>14 Q. Okay. So is your understanding of the</p> <p>15 attorney-client privilege only as a result of</p> <p>16 your participation in this lawsuit?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. How about with respect to the</p> <p>19 Attorney Work Product Doctrine? Do you have any</p> <p>20 understanding of what that doctrine covers,</p> <p>21 outside of your participation in this lawsuit?</p> <p>22 A. No, I've never had any legal training so</p> <p>23 I -- I do not.</p> <p>24 Q. How about training in the course of your</p> <p>25 work at the Naval Recruiting Command about the</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. What did you speak with and Sandra about</p> <p>2 in connection with this lawsuit?</p> <p>3 MR. MCBIRNEY: Same instruction.</p> <p>4 THE WITNESS: In gathering information</p> <p>5 at the request of counsel, I spoke with her about</p> <p>6 certain data that I understand to be privileged</p> <p>7 information since it was at the direction of</p> <p>8 counsel.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. So is it your position that data in</p> <p>11 possession of VMLY&R is privileged information?</p> <p>12 MR. MCBIRNEY: Objection. Calls for a</p> <p>13 legal conclusion. Argumentative.</p> <p>14 THE WITNESS: It's my understanding that</p> <p>15 in the gathering of information from VMLY&R at</p> <p>16 the direction of counsel that that would be</p> <p>17 privileged information.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Okay. And what is that understanding</p> <p>20 based on?</p> <p>21 MR. MCBIRNEY: Objection. Instruct</p> <p>22 witness not to answer.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. Can you answer that question without</p> <p>25 revealing any attorney-client privileged</p>	<p style="text-align: right;">Page 25</p> <p>1 attorney-client privilege or the Attorney Work</p> <p>2 Product Doctrine?</p> <p>3 A. Not that I recall.</p> <p>4 Q. Okay. Did Ms. -- did Sandra provide you</p> <p>5 any data?</p> <p>6 A. Yes.</p> <p>7 Q. What kind of data did she provide you?</p> <p>8 MR. MCBIRNEY: Objection.</p> <p>9 THE VIDEOGRAPHER: Counsel, your</p> <p>10 microphone.</p> <p>11 MR. MCBIRNEY: Sorry. I guess we're</p> <p>12 pausing.</p> <p>13 MS. GOODMAN: I was just covering my</p> <p>14 microphone.</p> <p>15 MR. MCBIRNEY: Oh, okay. Objection.</p> <p>16 Sorry. Can you reask the question?</p> <p>17 MS. GOODMAN: Yeah. Why don't we do</p> <p>18 that.</p> <p>19 MR. MCBIRNEY: Yeah.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Did Sandra provide you any data?</p> <p>22 A. Yes.</p> <p>23 Q. What kind of data did she provide you?</p> <p>24 MR. MCBIRNEY: Objection. Privileged.</p> <p>25 Instruct not to answer.</p>

<p style="text-align: right;">Page 26</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. All right. Well, are you going to</p> <p>3 follow that instruction?</p> <p>4 A. Yes.</p> <p>5 Q. Did she provide you any facts?</p> <p>6 A. Yes.</p> <p>7 Q. And what facts did she provide you?</p> <p>8 A. The information she provided me is, my</p> <p>9 understanding, would be privileged information.</p> <p>10 And I'm following my counsel's instruction not</p> <p>11 to -- not to disclose that.</p> <p>12 Q. Okay. Was any attorney present during</p> <p>13 your conversation with Sandra?</p> <p>14 A. No.</p> <p>15 Q. Was anybody, other than yourself and</p> <p>16 Sandra, a participant in this conversation?</p> <p>17 A. Not that I recall.</p> <p>18 Q. How many conversations did you have with</p> <p>19 Sandra in connection with this lawsuit?</p> <p>20 A. I don't recall.</p> <p>21 Q. Can you approximate?</p> <p>22 A. No.</p> <p>23 Q. Was it more than a hundred?</p> <p>24 A. No.</p> <p>25 Q. Was it more than 20?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. Was it before February of 2023?</p> <p>2 MR. MCBIRNEY: Objection; foundation.</p> <p>3 THE WITNESS: I don't recall.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Did you exchange emails with Sandra in</p> <p>6 connection with this lawsuit?</p> <p>7 A. I may have, but I don't recall.</p> <p>8 Q. Was it your practice to pick up the</p> <p>9 phone and call her in connection with this</p> <p>10 lawsuit rather than exchanging emails?</p> <p>11 A. I --</p> <p>12 MR. MCBIRNEY: Objection; foundation.</p> <p>13 THE WITNESS: Yeah. I didn't have an</p> <p>14 established practice. I -- sometimes I call.</p> <p>15 Sometimes I text. Sometimes I email.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Okay. And so is it accurate to say that</p> <p>18 you text Sandra in connection with the work she</p> <p>19 provides -- or that she performed for the Naval</p> <p>20 Recruiting Command?</p> <p>21 A. No.</p> <p>22 Q. Okay. Well, --</p> <p>23 A. Can you --</p> <p>24 Q. -- you said sometimes you text, so I</p> <p>25 want to understand --</p>
<p style="text-align: right;">Page 27</p> <p>1 A. I don't recall an exact number.</p> <p>2 Q. Can you -- can you answer whether it was</p> <p>3 more than 20?</p> <p>4 A. I don't want to guess at a number, so</p> <p>5 I -- I can't recall the exact number. In -- in</p> <p>6 general terms, I can't recall.</p> <p>7 Q. So it's somewhere less than a hundred,</p> <p>8 but besides less than a hundred conversations</p> <p>9 with Sandra at Wavemaker you can't recall how</p> <p>10 many times you spoke with her in connection with</p> <p>11 this lawsuit; is that correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. When do you recall</p> <p>14 first -- what's your first recollection of a</p> <p>15 conversation with Sandra? When did that occur?</p> <p>16 MR. MCBIRNEY: Objection; vague.</p> <p>17 THE WITNESS: She joined the agency in</p> <p>18 2016. It would have been in 2016.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Okay. How about in connection with this</p> <p>21 lawsuit? When did you first have a conversation</p> <p>22 with Sandra in connection with this lawsuit?</p> <p>23 A. I don't recall the exact date.</p> <p>24 Q. What's your best recollection?</p> <p>25 A. Earlier this year.</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Sure.</p> <p>2 Q. -- under what circumstances do you text</p> <p>3 Sandra?</p> <p>4 MR. MCBIRNEY: Object to the form of the</p> <p>5 question.</p> <p>6 THE WITNESS: Yeah. I was speaking</p> <p>7 -- you asked if I -- in general terms how I</p> <p>8 conducted business. So what I was saying is,</p> <p>9 in general terms, those are the methods of</p> <p>10 communication. That wasn't in reference to</p> <p>11 Sandra directly.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Okay. So with respect to Sandra, how do</p> <p>14 you communicate with Sandra?</p> <p>15 A. Phone. Email.</p> <p>16 Q. But you don't text her?</p> <p>17 A. I have texted Sandra, yes.</p> <p>18 Q. In connection with work purposes?</p> <p>19 A. Not in regards to this.</p> <p>20 Q. When you say "this," what do you mean?</p> <p>21 A. To this deposition or this case.</p> <p>22 Q. Okay. How about with respect to the</p> <p>23 work that Wavemaker conducts as an ad agency for</p> <p>24 the Navy, do you text her about that work?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. So what do you text Ms. Sandra about?</p> <p>2 A. If I texted Ms. Sandra, I don't recall</p> <p>3 specifically what it would be about, but usually</p> <p>4 it's just general logistics stuff.</p> <p>5 Q. What do you mean by "general logistics"?</p> <p>6 A. "Gonna be late to a meeting." That type</p> <p>7 of stuff.</p> <p>8 Q. Anything substantive with respect to the</p> <p>9 work that Ms. Sandra performs on behalf of the</p> <p>10 Navy Recruiting Command?</p> <p>11 A. No.</p> <p>12 Q. When you spoke with Sandra in connection</p> <p>13 with this lawsuit, did you tell her that the</p> <p>14 conversation was privileged?</p> <p>15 A. I don't recall.</p> <p>16 Q. Did you tell her why you were asking her</p> <p>17 for information?</p> <p>18 A. I -- I don't recall.</p> <p>19 Q. What do you recall telling Sandra in</p> <p>20 your conversations in connection with this</p> <p>21 lawsuit?</p> <p>22 MR. MCBIRNEY: Objection. Calls for</p> <p>23 privileged information. Instruct the witness not</p> <p>24 to answer.</p> <p>25 MS. GOODMAN: Can you explain the basis</p>	<p style="text-align: right;">Page 32</p> <p>1 recall?</p> <p>2 A. Generally, all I recall is needing</p> <p>3 information to answer the questions for the DOJ</p> <p>4 attorneys.</p> <p>5 Q. And did you tell Mr. Edmondson why you</p> <p>6 were asking him for information?</p> <p>7 A. I -- I don't recall what I exactly told</p> <p>8 him.</p> <p>9 Q. What is -- when do you first recall</p> <p>10 speaking with Mr. Edmondson in connection</p> <p>11 -- about this lawsuit?</p> <p>12 MR. MCBIRNEY: Objection; foundation.</p> <p>13 Assumes facts not in evidence.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. You may answer.</p> <p>16 A. Earlier -- earlier this year.</p> <p>17 Q. Okay. Was it before February of 2023?</p> <p>18 A. I don't recall.</p> <p>19 Q. What counsel directed you to have these</p> <p>20 conversations with individuals at your ad agency?</p> <p>21 A. I don't recall. I don't recall exactly</p> <p>22 which counsel was -- was on the conversations.</p> <p>23 Q. Can you recall generally what lawyers</p> <p>24 were involved in these communications?</p> <p>25 A. Sure. The -- the only attorney I'm</p>
<p style="text-align: right;">Page 31</p> <p>1 of your objection, please?</p> <p>2 MR. MCBIRNEY: Absolutely. It is the</p> <p>3 attorney-client work product. He's already</p> <p>4 testified that he spoke with Sandra at the</p> <p>5 request of counsel to obtain information at the</p> <p>6 request of counsel. The specifics of that</p> <p>7 communication are protected.</p> <p>8 MS. GOODMAN: And so is it your</p> <p>9 position that I cannot ask Sandra about these</p> <p>10 communications, as well?</p> <p>11 MR. MCBIRNEY: That would be our</p> <p>12 position, correct.</p> <p>13 MS. GOODMAN: Okay. Well, we're going</p> <p>14 to take that up with the Court.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Sir, you mentioned also Chris Edmondson,</p> <p>17 that you potentially spoke with him. Do you</p> <p>18 recall that testimony?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What, if anything, do you recall</p> <p>21 speaking about with Mr. Edmondson with respect to</p> <p>22 this litigation?</p> <p>23 A. I don't recall the details of the</p> <p>24 conversation.</p> <p>25 Q. How about generally? What do you</p>	<p style="text-align: right;">Page 33</p> <p>1 certain of was Mr. Chase.</p> <p>2 Q. Okay. Any others?</p> <p>3 A. No. I -- I can't recall any others.</p> <p>4 Q. Were there any lawyers from the Navy</p> <p>5 involved in these communications?</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you recall speaking with anybody</p> <p>8 within the Navy Recruiting Command who are your</p> <p>9 subordinates about this lawsuit?</p> <p>10 A. Yes.</p> <p>11 Q. Who?</p> <p>12 A. Ms. Dean Stewart-Curry, my director of</p> <p>13 resources.</p> <p>14 Q. Anyone else?</p> <p>15 A. No.</p> <p>16 Q. How about Adelina Lozzi, did you speak</p> <p>17 with her about this lawsuit?</p> <p>18 A. Yeah. She's not one of my employees,</p> <p>19 but, yes.</p> <p>20 Q. So whether they're your subordinate or</p> <p>21 not, we've talked about the individuals in your</p> <p>22 chain of command, Ms. Stewart-Curry and</p> <p>23 Ms. Lozzi. Is there anybody else at the Navy</p> <p>24 Recruiting Command that you've spoken with about</p> <p>25 this lawsuit?</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Not that I recall.</p> <p>2 Q. And what did you and Ms. Stewart-Curry</p> <p>3 discuss about this lawsuit?</p> <p>4 A. Responses to DOJ inquiries for</p> <p>5 information.</p> <p>6 Q. Okay. And when did you have these</p> <p>7 discussions with Ms. Stewart-Curry?</p> <p>8 A. At various times.</p> <p>9 Q. What's your best recollection of such</p> <p>10 various times that you had these discussions with</p> <p>11 Ms. Stewart-Curry?</p> <p>12 A. Throughout earlier this year.</p> <p>13 Q. Any conversations with her about this</p> <p>14 lawsuit prior to February of 2023 that you</p> <p>15 recall?</p> <p>16 MR. MCBIRNEY: Objection; foundation.</p> <p>17 THE WITNESS: Not that I recall. I</p> <p>18 -- I'm -- just earlier this year. I don't recall</p> <p>19 specific dates.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Okay. And same questions with respect</p> <p>22 to Ms. Lozzi. When do you -- when did you have</p> <p>23 conversations with her about this lawsuit?</p> <p>24 A. I don't recall specific dates. Earlier</p> <p>25 this year.</p>	<p style="text-align: right;">Page 36</p> <p>1 being deposed?</p> <p>2 A. I don't recall.</p> <p>3 Q. Did you tell Ms. Stewart-Curry that you</p> <p>4 were being deposed?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So this is another individual</p> <p>7 with whom you've discussed your deposition; is</p> <p>8 that correct?</p> <p>9 MR. MCBIRNEY: Objection; argumentative.</p> <p>10 THE WITNESS: The discussions that I had</p> <p>11 with Ms. Stewart-Curry were gathering responses</p> <p>12 to my counsel. So I believe that the content</p> <p>13 that -- with what we would have discussed would</p> <p>14 have been privileged.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. But with respect to the</p> <p>17 individuals that you spoke about your deposition</p> <p>18 with, Ms. Lozzi is one such individual, correct?</p> <p>19 A. I -- I can't recall.</p> <p>20 Q. Okay. So we've talked about two</p> <p>21 individuals at the ad agency, individuals</p> <p>22 within your chain of command, your subordinate</p> <p>23 Ms. Stewart-Curry and another individual, Ms.</p> <p>24 Lozzi at the Navy Recruiting Command, with whom</p> <p>25 you've had conversations about this lawsuit. Is</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. Okay. What did you and Ms. Lozzi</p> <p>2 discuss about this lawsuit?</p> <p>3 MR. MCBIRNEY: Caution the witness not</p> <p>4 to disclose communications with counsel or</p> <p>5 directions relayed from counsel. If you could</p> <p>6 answer the question without disclosing those</p> <p>7 communications, you can answer. Otherwise, I</p> <p>8 instruct you not to answer.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Can you answer the question?</p> <p>11 A. I cannot. I will follow counsel's</p> <p>12 direction.</p> <p>13 Q. So every conversation you've had with</p> <p>14 Ms. Lozzi in connection with this lawsuit are --</p> <p>15 were in the presence of an attorney or at the</p> <p>16 direction of counsel. Is that your testimony?</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. Do you recall any conversation</p> <p>19 sitting here today that did not involve an</p> <p>20 attorney or that were not at the direction of</p> <p>21 counsel with Ms. Lozzi?</p> <p>22 A. Sitting here today, I -- I cannot recall</p> <p>23 any that would have been outside of the direction</p> <p>24 of counsel.</p> <p>25 Q. Okay. Did you tell Ms. Lozzi you were</p>	<p style="text-align: right;">Page 37</p> <p>1 that a fair summary of what you've testified to</p> <p>2 so far?</p> <p>3 MR. MCBIRNEY: Object to the form of the</p> <p>4 question.</p> <p>5 THE WITNESS: I've testified that I have</p> <p>6 had discussions with my chain of command. I've</p> <p>7 had discussions with Ms. Stewart-Curry. I've had</p> <p>8 conversations with Ms. Lozzi, although I don't</p> <p>9 recall the specifics of those conversations and</p> <p>10 whether or not they was -- they were related to</p> <p>11 the deposition. And that's my testimony.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. And your testimony also includes your</p> <p>14 conversations with individuals at the ad agency;</p> <p>15 is that correct?</p> <p>16 MR. MCBIRNEY: Object to the form of the</p> <p>17 question.</p> <p>18 THE WITNESS: My testimony is I</p> <p>19 had conversations with Ms. Sandra Mouio and</p> <p>20 Mr. Edmondson.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. About this lawsuit, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And with respect to all of the</p> <p>25 individuals that we've gone over today, are there</p>

<p style="text-align: right;">Page 38</p> <p>1 any other individuals with whom you have spoken</p> <p>2 about this lawsuit?</p> <p>3 A. Not that I recall.</p> <p>4 Q. With respect to all of the individuals</p> <p>5 we've gone over so far today, at what point in</p> <p>6 time did you first have a conversation about this</p> <p>7 lawsuit with any of them, to the best of your</p> <p>8 recollection?</p> <p>9 A. Earlier this year, to the best of my</p> <p>10 recollection. I don't recall a specific date.</p> <p>11 Q. Okay. Do you have any reason to believe</p> <p>12 you had any conversations about this lawsuit with</p> <p>13 any of the individuals we've discussed here today</p> <p>14 prior to February of 2023?</p> <p>15 MR. MCBIRNEY: Objection; foundation,</p> <p>16 and to form.</p> <p>17 THE WITNESS: As I stated earlier, I</p> <p>18 don't recall the earliest conversations that I</p> <p>19 had about this lawsuit. I -- I don't recall</p> <p>20 specific dates.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. Okay. Do you recall any conversation</p> <p>23 about this lawsuit with any of the individuals</p> <p>24 that we've discussed here today taking place in</p> <p>25 2022?</p>	<p style="text-align: right;">Page 40</p> <p>1 can answer that question without disclosing</p> <p>2 privileged communications, you can answer.</p> <p>3 Otherwise, I instruct you not to answer.</p> <p>4 THE WITNESS: My only knowledge is via</p> <p>5 privileged communications with counsel and I have</p> <p>6 no knowledge outside of that.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Did you read the complaint filed in this</p> <p>9 matter?</p> <p>10 A. I did not.</p> <p>11 Q. Why not?</p> <p>12 MR. MCBIRNEY: Object to form.</p> <p>13 THE WITNESS: I --</p> <p>14 MS. GOODMAN: What's the form objection?</p> <p>15 MR. MCBIRNEY: Vague.</p> <p>16 MS. GOODMAN: Okay.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Why didn't you read the complaint filed</p> <p>19 in this lawsuit?</p> <p>20 A. I don't have a reason for not reading</p> <p>21 it. I just didn't seek it out.</p> <p>22 Q. Do you have any interest, sitting here</p> <p>23 today, in reading the complaint filed in this</p> <p>24 lawsuit?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 39</p> <p>1 MR. MCBIRNEY: Objection. Asked and</p> <p>2 answered. Foundation.</p> <p>3 THE WITNESS: And as I stated earlier,</p> <p>4 I don't recall the earliest dates of having</p> <p>5 conversations about the lawsuit.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Well, your testimony was that you</p> <p>8 recalled having conversations earlier this year,</p> <p>9 meaning 2023, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. So earl -- other than earlier</p> <p>12 this year, can you pinpoint in time your first</p> <p>13 conversations with anybody in connection with</p> <p>14 this lawsuit?</p> <p>15 MR. MCBIRNEY: Objection. Asked and</p> <p>16 answered. Foundation.</p> <p>17 THE WITNESS: As I stated earlier,</p> <p>18 I cannot recall the earliest dates, other than</p> <p>19 sometime earlier this year of 2023, of where I</p> <p>20 had conversations about this lawsuit.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. Okay. What is your understanding of</p> <p>23 what this lawsuit is about?</p> <p>24 MR. MCBIRNEY: Instruct the witness not</p> <p>25 to disclose communications with counsel. If you</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Why not?</p> <p>2 MR. MCBIRNEY: Objection; vague.</p> <p>3 THE WITNESS: Can you be more specific</p> <p>4 with the question?</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Why do you not have any interest,</p> <p>7 sitting here today, in reading the complaint</p> <p>8 filed in this lawsuit?</p> <p>9 MR. MCBIRNEY: Same objection.</p> <p>10 THE WITNESS: I just don't.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Is it important to you what the</p> <p>13 complaint says?</p> <p>14 A. It won't -- it won't affect my truthful</p> <p>15 testimony, so, no.</p> <p>16 Q. Okay. For purposes of the work you do</p> <p>17 for the Navy Recruiting Command, is it important</p> <p>18 for you to understand what the complaint says?</p> <p>19 MR. MCBIRNEY: Objection; foundation.</p> <p>20 THE WITNESS: I don't think -- well, can</p> <p>21 -- can you rephrase that question? I'm not sure</p> <p>22 I understand.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. For the purposes of the work you do at</p> <p>25 Navy Recruiting Command, is it important for you</p>

<p style="text-align: right;">Page 42</p> <p>1 to understand what the complaint says?</p> <p>2 MR. MCBIRNEY: Same objection.</p> <p>3 THE WITNESS: No.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. For the purposes of the work you</p> <p>6 do at Navy Recruiting Command, is it important</p> <p>7 for you to understand what this lawsuit is about?</p> <p>8 MR. MCBIRNEY: Objection; foundation.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Why is it not important for you to</p> <p>12 understand what the complaint says for the</p> <p>13 purposes of the work you do at the Navy</p> <p>14 Recruiting Command?</p> <p>15 MR. MCBIRNEY: Objection; foundation.</p> <p>16 THE WITNESS: I don't believe it has an</p> <p>17 impact on my work.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. And why is it not important for you to</p> <p>20 understand what this lawsuit is about for the</p> <p>21 purposes of the work you do at Navy Recruiting</p> <p>22 Command?</p> <p>23 MR. MCBIRNEY: Objection; foundation.</p> <p>24 THE WITNESS: Is that -- is that the</p> <p>25 same question you just asked? I apologize. Can</p>	<p style="text-align: right;">Page 44</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. Okay. And so am I correct -- is it your</p> <p>3 testimony that your only understanding of what</p> <p>4 this lawsuit is about comes from conversations</p> <p>5 with lawyers? Is that accurate?</p> <p>6 A. That is accurate.</p> <p>7 Q. Okay. And, to your knowledge, what is</p> <p>8 the role of the Navy in this lawsuit?</p> <p>9 A. To my knowledge, the role of Navy</p> <p>10 is that we purchase media, some of which from</p> <p>11 Google.</p> <p>12 Q. And what is the significance of the</p> <p>13 media that the Navy purchases, some of which is</p> <p>14 from Google, to this lawsuit?</p> <p>15 MR. MCBIRNEY: Objection; foundation.</p> <p>16 And to the extent it calls for privileged</p> <p>17 information, I'd instruct you not to answer.</p> <p>18 If you can answer without disclosing privileged</p> <p>19 information, you can answer the question.</p> <p>20 THE WITNESS: Yeah. I cannot answer</p> <p>21 that question without disclosing privileged</p> <p>22 information.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. And so we've talked about the Navy's</p> <p>25 role in this lawsuit. What is your role in this</p>
<p style="text-align: right;">Page 43</p> <p>1 you rephrase that? I understand it to be the</p> <p>2 same the questions question you just asked.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Sure. My first question was what the</p> <p>5 complaint says, and my next question is why is it</p> <p>6 not important for you to understand what this</p> <p>7 lawsuit is about for the purposes of your work at</p> <p>8 Navy Recruiting Command.</p> <p>9 MR. MCBIRNEY: Same objection.</p> <p>10 THE WITNESS: I don't believe it would</p> <p>11 impact my work.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. And why do you think that understanding</p> <p>14 what the complaint says or would what this</p> <p>15 lawsuit is about would not impact your work?</p> <p>16 MR. MCBIRNEY: Objection; foundation.</p> <p>17 And asked and answered.</p> <p>18 THE WITNESS: I just don't believe it</p> <p>19 would impact my work.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. And my question is why wouldn't it</p> <p>22 impact your work?</p> <p>23 MR. MCBIRNEY: Same objections.</p> <p>24 THE WITNESS: It would not change how I</p> <p>25 operate.</p>	<p style="text-align: right;">Page 45</p> <p>1 lawsuit?</p> <p>2 MR. MCBIRNEY: Objection; vague.</p> <p>3 THE WITNESS: Yeah. Can you be more</p> <p>4 specific?</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Why are you participating in this</p> <p>7 lawsuit?</p> <p>8 MR. MCBIRNEY: Objection. Assumes facts</p> <p>9 not in evidence, and vague.</p> <p>10 THE WITNESS: Yeah. I'm here at the --</p> <p>11 the request of my counsel to be here to give this</p> <p>12 deposition.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Had counsel not requested your</p> <p>15 participation, would you seek to participate in</p> <p>16 this lawsuit?</p> <p>17 MR. MCBIRNEY: Objection. Calls for</p> <p>18 speculation.</p> <p>19 THE WITNESS: Can -- can you be more</p> <p>20 specific with that question?</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. Is the only reason you're participating</p> <p>23 in this lawsuit because counsel requested your</p> <p>24 participation?</p> <p>25 A. I'm participating in this -- in this</p>

<p style="text-align: right;">Page 46</p> <p>1 lawsuit because of my role with the Navy and that</p> <p>2 I've been requested to be here.</p> <p>3 Q. Okay. So other than your role with the</p> <p>4 Navy and that you've been requested to be here,</p> <p>5 is there any other reason you're participating in</p> <p>6 this lawsuit?</p> <p>7 MR. MCBIRNEY: Object to the form of the</p> <p>8 question.</p> <p>9 THE WITNESS: There's no other reason</p> <p>10 that I'm here.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. When, to your knowledge -- strike that.</p> <p>13 How did you learn about this lawsuit?</p> <p>14 A. I believe it was via email.</p> <p>15 Q. From who?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you recall what agency sent you an</p> <p>18 email about this lawsuit? Was it within the</p> <p>19 Navy? Was it DOJ? Was it somewhere -- was it</p> <p>20 the ad agency?</p> <p>21 A. No. It -- it was from -- it was from a</p> <p>22 government source. I don't recall if it was DOJ</p> <p>23 or my chain of command. I -- I -- I don't</p> <p>24 recall.</p> <p>25 Q. Okay. And approximately when did you</p>	<p style="text-align: right;">Page 48</p> <p>1 lawsuit from an email, were you asked to</p> <p>2 participate in the lawsuit --</p> <p>3 MR. MCBIRNEY: Objection; foundation.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. -- at that time?</p> <p>6 A. I don't recall the contents of the email</p> <p>7 and what it -- what it said or asked of me.</p> <p>8 Q. When you received an email about this</p> <p>9 lawsuit, you said it was from a government</p> <p>10 source, correct?</p> <p>11 A. I believe so.</p> <p>12 Q. Okay. To the best of your recollection,</p> <p>13 was it from an attorney?</p> <p>14 A. Ma'am, I don't recall who sent the</p> <p>15 email.</p> <p>16 Q. What was your reaction upon receiving</p> <p>17 this email?</p> <p>18 MR. MCBIRNEY: Objection; foundation.</p> <p>19 THE WITNESS: Yeah. I -- I don't</p> <p>20 recall.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. Prior to learning of this lawsuit,</p> <p>23 sometime in early 2023, have you been aware of</p> <p>24 any investigation by the Department of Justice</p> <p>25 into Google's digital advertising businesses?</p>
<p style="text-align: right;">Page 47</p> <p>1 receive this email from which you learned about</p> <p>2 this lawsuit?</p> <p>3 A. I don't recall the exact date.</p> <p>4 Q. How about approximately?</p> <p>5 A. I believe it was earlier this year, --</p> <p>6 Q. Okay.</p> <p>7 A. -- but I don't recall an exact date.</p> <p>8 Q. Other than earlier this year, can you</p> <p>9 pinpoint in time, more specifically, when you</p> <p>10 learned about this lawsuit from an email?</p> <p>11 A. I cannot.</p> <p>12 Q. Do you know who made the decision for</p> <p>13 the Navy to participate in this lawsuit?</p> <p>14 A. I do not.</p> <p>15 Q. Based on your knowledge and</p> <p>16 understanding of the organizational structure of</p> <p>17 the Navy, what is your best understanding of who</p> <p>18 would need to be involved in making a decision</p> <p>19 about the Navy's participation in this lawsuit?</p> <p>20 MR. MCBIRNEY: Objection; foundation.</p> <p>21 Calls for speculation.</p> <p>22 THE WITNESS: I have no idea who would</p> <p>23 need to make that decision.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. When you first learned about this</p>	<p style="text-align: right;">Page 49</p> <p>1 A. I was not aware.</p> <p>2 Q. So is it accurate to say that the first</p> <p>3 time you became aware of any DOJ investigation</p> <p>4 into Google's digital advertising business was</p> <p>5 upon learning of this lawsuit?</p> <p>6 A. The first time I had any knowledge into</p> <p>7 that was receiving the email notifying me of the</p> <p>8 lawsuit.</p> <p>9 Q. And that was sometime in 2023, correct?</p> <p>10 A. I don't recall the exact date, but I</p> <p>11 believe it to be earlier this year in 2023.</p> <p>12 Q. Okay. And so prior to learning of this</p> <p>13 lawsuit in 2020 -- 20 -- 2023, had you received</p> <p>14 any outreach from the Department of Justice</p> <p>15 inquiring about the Navy's digital advertising</p> <p>16 purchases?</p> <p>17 A. Not that I recall.</p> <p>18 Q. How about -- have you had any</p> <p>19 conversations with anybody at any state attorney</p> <p>20 generals offices about this lawsuit?</p> <p>21 A. No.</p> <p>22 Q. Do you understand that other states are</p> <p>23 participating in this lawsuit?</p> <p>24 A. I don't understand what states are</p> <p>25 participating in the lawsuit.</p>

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<p>1 Q. Okay. And so prior to the com --</p> <p>2 the learning of this lawsuit, had you had any</p> <p>3 discussions with any individuals from state</p> <p>4 attorney generals' offices about Google's digital</p> <p>5 advertising businesses?</p> <p>6 A. Can you ask that question again? I'm</p> <p>7 sorry.</p> <p>8 Q. Prior to learning of this lawsuit, did</p> <p>9 you have any conversations with any individual</p> <p>10 representing a state attorney general about</p> <p>11 Google's digital advertising businesses?</p> <p>12 A. No.</p> <p>13 Q. Okay. What's your title?</p> <p>14 A. Director of marketing, Navy Recruiting</p> <p>15 Command.</p> <p>16 Q. How long have you had that title?</p> <p>17 A. Since February of 2021.</p> <p>18 Q. So your LinkedIn page says that your</p> <p>19 title is chief marketing officer. Is that</p> <p>20 accurate?</p> <p>21 A. Yes. That's one and the same.</p> <p>22 Q. So director of marketing for Navy</p> <p>23 Recruiting Command is the same thing as the chief</p> <p>24 marketing officer. Is that your testimony?</p> <p>25 A. Yes.</p>	<p>1 A. Sure. In general terms, if someone says</p> <p>2 they're "in the Navy," they're wearing a uniform.</p> <p>3 They're a service member, active duty or</p> <p>4 reserves.</p> <p>5 Q. And so you retired from being a service</p> <p>6 member or active duty or in the reserves sometime</p> <p>7 in the summer of 2019?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. How did you come to work as the</p> <p>10 deputy director of marketing for the Navy</p> <p>11 Recruiting Command?</p> <p>12 A. I applied for a GS federal job that was</p> <p>13 open for the deputy director and was hired.</p> <p>14 Q. Okay. Prior to serving as -- or prior</p> <p>15 to taking on the role of deputy director of</p> <p>16 marketing, did you have experience -- work</p> <p>17 experience in advertising or in marketing?</p> <p>18 A. Prior to -- can -- can you repeat that</p> <p>19 question?</p> <p>20 Q. Prior to serving as the deputy director</p> <p>21 of marketing, what, if any, work experience did</p> <p>22 you have in advertising or marketing?</p> <p>23 A. I worked in the N9 Department,</p> <p>24 the marketing and advertising department, from</p> <p>25 approximately August of '15 to the summer of '19.</p>
Page 51	Page 53
<p>1 Q. Okay. Prior to February 2021, what was</p> <p>2 your title?</p> <p>3 A. Deputy director of marketing.</p> <p>4 Q. And how long did you have the job of</p> <p>5 deputy director of marketing?</p> <p>6 A. Since March of 2020.</p> <p>7 Q. And prior to March of 2020, what was</p> <p>8 your title?</p> <p>9 A. Prior to March of 2020, I was retired.</p> <p>10 Q. For how long were you retired prior to</p> <p>11 March of 2020?</p> <p>12 A. Approximately eight months.</p> <p>13 Q. And so -- so sometime in the summer of</p> <p>14 the 2019 you retired. Is that accurate?</p> <p>15 A. Yes. That -- that's accurate.</p> <p>16 Q. Okay. And from what did you retire in</p> <p>17 the summer of 2020 -- 2019?</p> <p>18 A. From the Navy.</p> <p>19 Q. Okay. How long were you in the Navy?</p> <p>20 A. Approximately 21 years.</p> <p>21 Q. I speak a bit as a layperson when I say</p> <p>22 "in the Navy," but what's the difference between</p> <p>23 being in the Navy, as I've just used that term,</p> <p>24 and your job now at the Navy? Can you help me</p> <p>25 understand that?</p>	<p>1 Q. And what -- that was while you were</p> <p>2 -- were you active duty during that time or</p> <p>3 reserve, or what was your status at that time?</p> <p>4 A. Active duty.</p> <p>5 Q. Okay. So when you worked in the N9</p> <p>6 Department, what was your job?</p> <p>7 A. I was the marketing operations officer.</p> <p>8 Q. What did your job duties entail as the</p> <p>9 marketing operations officer?</p> <p>10 A. It was -- the job generally entailed</p> <p>11 ensuring that filming productions were completed</p> <p>12 on time, creative work was completed on time.</p> <p>13 Generally, executing the marketing operations.</p> <p>14 Q. Did your job duties entail purchasing</p> <p>15 digital media?</p> <p>16 A. No.</p> <p>17 Q. Okay. Did it involve purchasing any</p> <p>18 media when you were the marketing operations</p> <p>19 officer?</p> <p>20 A. No.</p> <p>21 Q. And prior to serving as the marketing</p> <p>22 operations officer, did you have any work</p> <p>23 experience in advertising or marketing?</p> <p>24 A. No.</p> <p>25 Q. Okay. So let's go to your role as</p>

<p style="text-align: right;">Page 54</p> <p>1 deputy director of marketing. What were your job 2 duties in that role?</p> <p>3 A. The job duties were to assist the 4 director to manage the staff, and to be the 5 contracting officer representative, the COR.</p> <p>6 Q. For what contract were you the COR when 7 you served as deputy director of marketing?</p> <p>8 A. The marketing and advertising contract 9 with VMLY&R.</p> <p>10 Q. Did you receive any training or 11 certifications in order to serve as a COR?</p> <p>12 A. Yes.</p> <p>13 Q. What training or certification did you 14 receive in order to serve as a COR?</p> <p>15 A. I don't recall the exact course name. 16 I believe it was CLC 222. But there's a COR 17 training that -- that's mandated, and I believe 18 that was it.</p> <p>19 Q. When did you take that training, to the 20 best of your recollection?</p> <p>21 A. It would have been in the March of 22 -- the March of 2020 time frame, to the best of 23 my recollection.</p> <p>24 Q. Who offers that CLC 222 training?</p> <p>25 A. My understanding it's offered by Defense</p>	<p style="text-align: right;">Page 56</p> <p>1 the director job at that time.</p> <p>2 Q. Okay. And now as the director of 3 marketing, do you report to the chief of staff?</p> <p>4 A. I report to the Admiral.</p> <p>5 Q. For how long have you reported to the 6 Admiral -- Admiral in your role as director of 7 marketing?</p> <p>8 A. Since February of 2021.</p> <p>9 Q. Okay. So the entire time you've been 10 director of marketing, you've reported to the 11 Admiral; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Earlier you mentioned an 14 executive director, Dr. Sullivan. What is his 15 job?</p> <p>16 A. He is the senior civilian at that 17 command, and the -- the Admiral's assistant.</p> <p>18 Q. Do you have an -- an informal reporting 19 relationship to Dr. Sullivan?</p> <p>20 A. I -- I wouldn't say -- I wouldn't 21 characterize it informal.</p> <p>22 Q. How would you characterize it?</p> <p>23 A. Formal.</p> <p>24 Q. Okay. So other than to the Admiral, do 25 you report to anybody in your role as director of</p>
<p style="text-align: right;">Page 55</p> <p>1 Acquisition University, DAU.</p> <p>2 Q. What is Defense Acquisition University?</p> <p>3 A. It's an online -- and sometimes 4 in-person -- training that -- for Department of 5 Defense jobs and specialties.</p> <p>6 Q. When you were deputy director of 7 marketing, to whom did you report?</p> <p>8 A. To the director of marketing.</p> <p>9 Q. What is that individual's name?</p> <p>10 A. Captain Matt Boren, B-o-r-e-n.</p> <p>11 Q. Is Captain Boren still employed with the 12 Navy Recruiting Command?</p> <p>13 A. No.</p> <p>14 Q. Did he retire?</p> <p>15 A. Yes.</p> <p>16 Q. And was it his retirement that led 17 to your being -- serving as the director of 18 marketing for Navy Recruiting Command?</p> <p>19 A. No.</p> <p>20 Q. Okay. How did you get the job of 21 director of marketing for the Navy Recruiting 22 Command?</p> <p>23 A. In February of 2021, Captain Boren was 24 moved to be -- moved jobs to be the chief of 25 staff, and the Admiral at the time moved me into</p>	<p style="text-align: right;">Page 57</p> <p>1 marketing?</p> <p>2 A. Yes.</p> <p>3 Q. Who else do you report to?</p> <p>4 A. The chief of staff.</p> <p>5 Q. Okay. And that's Mr. Reyes?</p> <p>6 A. Captain Reyes.</p> <p>7 Q. Captain Reyes?</p> <p>8 A. Yes.</p> <p>9 Q. Has Captain Reyes been the chief of 10 staff the entire time you've been director of 11 marketing?</p> <p>12 A. No.</p> <p>13 Q. Okay. Who else served in the chief of 14 staff role to whom you reported while you've been 15 the director of marketing?</p> <p>16 A. Prior to Captain Reyes, it was Captain 17 Bayungan.</p> <p>18 Q. Can you spell that, please?</p> <p>19 A. Sure. B-a-y-u-n-g-a-n.</p> <p>20 Q. And then other than Dr. Sullivan, has 21 there been any executive director to whom you've 22 reported while you have held the job of director 23 of marketing?</p> <p>24 A. No.</p> <p>25 Q. Okay. How about any other admiral</p>

<p style="text-align: right;">Page 58</p> <p>1 -- admirals to whom you've reported while you've</p> <p>2 been the director of marketing?</p> <p>3 A. Yes.</p> <p>4 Q. Who are those admirals?</p> <p>5 A. Admiral Velez. Yeah.</p> <p>6 Q. Beyond the Admirable -- Admiral --</p> <p>7 strike that.</p> <p>8 Is the Admiral -- does the Admiral sit</p> <p>9 at the top of the Navy Recruiting Command?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Who is the Admiral's boss?</p> <p>12 A. That would be referred to as NETC,</p> <p>13 N-E-T-C, which is the commander Naval Education</p> <p>14 and Training Command.</p> <p>15 Q. I've read some documents that you've</p> <p>16 produced entitled -- meaning the Navy has</p> <p>17 produced -- entitled the Commander's Report.</p> <p>18 Who's the commander referred to in those</p> <p>19 documents?</p> <p>20 MR. MCBIRNEY: Objection; foundation.</p> <p>21 THE WITNESS: Yeah. I -- I would need</p> <p>22 to see the documents just to make sure that I'm</p> <p>23 -- that I give you an accurate answer.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. Okay. What are your job</p>	<p style="text-align: right;">Page 60</p> <p>1 time you have been the deputy director or the</p> <p>2 director that you served as the COR on the VMLYR</p> <p>3 [sic] contract?</p> <p>4 MR. MCBIRNEY: Object to form.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Okay. Prior to March of 2020, who was</p> <p>8 the COR, to you -- if you know, on the VMLYR</p> <p>9 [sic] contract?</p> <p>10 A. Prior to 2020, it would have been the</p> <p>11 outgoing deputy, Mr. John Byrd.</p> <p>12 Q. And did Mr. Byrd leave Navy Recruiting</p> <p>13 Command in March of 2020?</p> <p>14 A. No.</p> <p>15 Q. Where did he go?</p> <p>16 A. He -- he retired.</p> <p>17 Q. So did he leave the Navy Recruiting</p> <p>18 Command in March of 2020 when he retired?</p> <p>19 A. I don't believe so. I believe it was</p> <p>20 earlier than that.</p> <p>21 Q. I see.</p> <p>22 Do you use your personal email for work</p> <p>23 purposes?</p> <p>24 A. No.</p> <p>25 Q. Have you ever used your personal email</p>
<p style="text-align: right;">Page 59</p> <p>1 responsibilities as the director of marketing for</p> <p>2 the Navy Recruiting Command?</p> <p>3 A. Sure. My overall responsibilities as</p> <p>4 director of marketing is to set the strategy for</p> <p>5 our marketing and to ensure that -- that the</p> <p>6 marketing is effective at producing leads and</p> <p>7 increasing Navy awareness.</p> <p>8 Q. When you say "producing leads," what do</p> <p>9 you mean?</p> <p>10 A. Producing actionable lists of people</p> <p>11 with their contact information who are both</p> <p>12 qualified and interested to join the Navy.</p> <p>13 Q. What responsibilities, if any, do you</p> <p>14 have as director of marketing with respect to</p> <p>15 purchasing media?</p> <p>16 A. Sure. So setting the strategy and</p> <p>17 approving the tactics employed to purchase media.</p> <p>18 Q. When you say "tactics employed," what do</p> <p>19 you mean?</p> <p>20 A. I mean to approve recommended media</p> <p>21 plans for execution.</p> <p>22 Q. Are you the COR on the VMLYR [sic]</p> <p>23 contract in your role as director of marketing?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. So is it accurate that the entire</p>	<p style="text-align: right;">Page 61</p> <p>1 for work purposes?</p> <p>2 A. The only time I can recollect using</p> <p>3 any personal email was if there are videos that</p> <p>4 wouldn't play on the NMCI, so, for review, I may</p> <p>5 have sent them to my personal email so that I</p> <p>6 could view them because of connectivity issues.</p> <p>7 Q. What is the "NMCI"?</p> <p>8 A. I'm sorry, the Navy Marine Corps</p> <p>9 Internet system.</p> <p>10 Q. Is that, like, a special intranet within</p> <p>11 the Navy?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And is that the only internet</p> <p>14 system that you can use at -- in your job at the</p> <p>15 Navy?</p> <p>16 A. Yes.</p> <p>17 Q. And using your personal email so that</p> <p>18 you could view videos because of connectivity</p> <p>19 issues, do you have any other recollection of</p> <p>20 using your personal email for work purposes?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Okay.</p> <p>23 MR. MCBIRNEY: Martha, if we're going to</p> <p>24 start going into documents, is now a good time</p> <p>25 for a break?</p>

<p style="text-align: right;">Page 74</p> <p>1 THE WITNESS: Yeah. I -- I -- I don't</p> <p>2 have any reason to believe that it would have</p> <p>3 documents related to this case.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Why is that?</p> <p>6 A. The majority of the work that I do in</p> <p>7 regards to media purchasing would have occurred</p> <p>8 on my PC.</p> <p>9 Q. And you say "the majority." How about</p> <p>10 the minority of the work that you do with regards</p> <p>11 to media purchasing, where would that take place?</p> <p>12 On what device?</p> <p>13 A. Again, as -- as mentioned earlier, it</p> <p>14 could be something like reviewing a deck on the</p> <p>15 iPad.</p> <p>16 Q. Mm-hmm. The minority of the work that</p> <p>17 you do with regards to media purchasing, could</p> <p>18 that -- did that take place on any other device</p> <p>19 than your iPad?</p> <p>20 MR. MCBIRNEY: Object to the form of the</p> <p>21 question.</p> <p>22 THE WITNESS: Not to my knowledge.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. So not on your personal cell phone?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 76</p> <p>1 chat on Teams was with my personal N9 team -- or</p> <p>2 my -- my business N9 team, my department, just</p> <p>3 letting everyone know that I was up on the net.</p> <p>4 So we used it as, like, a -- we used it as, like,</p> <p>5 a -- a standing room where people can come in and</p> <p>6 out to -- for people teleworking with people in</p> <p>7 the office to be able to communicate. So nothing</p> <p>8 in relation to media purchasing.</p> <p>9 Q. Okay. When you say "a standing room</p> <p>10 where people can come in and come out," what do</p> <p>11 you mean by that?</p> <p>12 A. A portion of the workforce is</p> <p>13 teleworking. So by having Teams open in the</p> <p>14 background it can minimize the need for phone</p> <p>15 calls and things like that. Someone can just go</p> <p>16 into the chat room and ask a question, if they</p> <p>17 have it --</p> <p>18 Q. And so --</p> <p>19 A. -- for Teams coordination.</p> <p>20 Q. So is it accurate that you participate</p> <p>21 in a chat room for those members of the team who</p> <p>22 are teleworking so that they can reach you?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And when you're in the chat room</p> <p>25 talking with members of your team -- talking to</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. And not on your work-provided cell</p> <p>2 phone?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. Do you use any other mode of</p> <p>5 communication to conduct your work other than</p> <p>6 text, email, that we've discussed so far?</p> <p>7 A. Microsoft Teams.</p> <p>8 Q. Okay. Anything else?</p> <p>9 A. Not to my knowledge.</p> <p>10 Q. Okay. Do you do chat on Microsoft</p> <p>11 Teams?</p> <p>12 A. Very rarely.</p> <p>13 Q. In the rare occasions where you use chat</p> <p>14 on Teams, what do you chat about related to media</p> <p>15 purchasing?</p> <p>16 MR. MCBIRNEY: Objection; foundation.</p> <p>17 Assumes facts.</p> <p>18 THE WITNESS: Yeah. Can -- can you</p> <p>19 rephrase the question?</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Sure.</p> <p>22 On the occasions where you use chat on</p> <p>23 Microsoft -- Microsoft Teams, what are you</p> <p>24 chatting about?</p> <p>25 A. The only recollection I have of using</p>	<p style="text-align: right;">Page 77</p> <p>1 members of your team via chat, what do you chat</p> <p>2 about?</p> <p>3 MR. MCBIRNEY: Objection; vague.</p> <p>4 THE WITNESS: Yeah. I -- I can't</p> <p>5 recollect any specific chat topics. Usually it's</p> <p>6 people checking in, "hey, I'm up on the net if</p> <p>7 anyone needs me today." That type of very vague</p> <p>8 conversation.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Any other types of "vague conversations"</p> <p>11 you can recall?</p> <p>12 A. No.</p> <p>13 Q. Do you recall ever discussing media</p> <p>14 purchasing via chat?</p> <p>15 A. I do not, no.</p> <p>16 Q. Do you ever recall discussing media</p> <p>17 strategy via chat?</p> <p>18 A. I do not.</p> <p>19 Q. What happens to the chats after you</p> <p>20 close out of Teams?</p> <p>21 MR. MCBIRNEY: Objection; foundation.</p> <p>22 THE WITNESS: Yeah. I -- I'm not a</p> <p>23 Teams IT expert. I have no idea.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. Okay. Have you ever gone back to look</p>

<p style="text-align: right;">Page 78</p> <p>1 at old chats to refresh your memory about</p> <p>2 something?</p> <p>3 A. No.</p> <p>4 Q. Have you ever gone back to see if old</p> <p>5 chats exist?</p> <p>6 A. No.</p> <p>7 Q. Okay. Did you collect any documents for</p> <p>8 purposes of this litigation from your own files?</p> <p>9 A. No.</p> <p>10 Q. Did you look within your house for any</p> <p>11 paper documents that might be related to this</p> <p>12 case?</p> <p>13 A. No.</p> <p>14 Q. Did you look in your email for any</p> <p>15 documents that might be related to this case?</p> <p>16 A. No.</p> <p>17 Q. Did you provide any direction to any</p> <p>18 attorney with respect to where to find documents</p> <p>19 related to this case within your files?</p> <p>20 MR. MCBIRNEY: I'm going to object to</p> <p>21 that.</p> <p>22 MS. GOODMAN: It's a yes or no question.</p> <p>23 MR. MCBIRNEY: I understand it's a yes</p> <p>24 or no question, but I'm going to instruct the</p> <p>25 witness not to answer. That's privileged.</p>	<p style="text-align: right;">Page 80</p> <p>1 That's a yes or no question. You can</p> <p>2 answer that yes or no.</p> <p>3 THE WITNESS: Okay. Can you ask it one</p> <p>4 more time?</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Do you know who, if anybody, within the</p> <p>7 Navy helped collect documents from your files for</p> <p>8 purposes of this litigation?</p> <p>9 A. Yes.</p> <p>10 Q. Who?</p> <p>11 MR. MCBIRNEY: Okay. If that reveals</p> <p>12 privileged information, I'd instruct you not to</p> <p>13 answer. If you can answer that question without</p> <p>14 revealing privileged information, you can answer.</p> <p>15 THE WITNESS: Yeah. I can't answer that</p> <p>16 without revealing privileged information.</p> <p>17 MS. GOODMAN: So, Counsel, it is your</p> <p>18 position that the identity of a person who</p> <p>19 participated in collecting documents from</p> <p>20 Mr. Owens' files is a privileged fact?</p> <p>21 MR. MCBIRNEY: If that was</p> <p>22 -- potentially, yes, is my answer.</p> <p>23 If you want me to take a break, I can</p> <p>24 talk to him and figure out what's going on.</p> <p>25 But at this point I think it's potentially</p>
<p style="text-align: right;">Page 79</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. Are you going to follow that</p> <p>3 instruction?</p> <p>4 A. Yes.</p> <p>5 Q. Did you participate in any way, shape or</p> <p>6 form in the collection of documents from your own</p> <p>7 files for purposes of this litigation?</p> <p>8 A. Can you be more specific?</p> <p>9 Q. I'm -- I was being more specific before,</p> <p>10 so now I'm going to start a bit more generally so</p> <p>11 that I can understand what, if anything, you did</p> <p>12 with respect to collecting documents for purposes</p> <p>13 of this litigation. So my question is whether</p> <p>14 you participated at all in collecting documents</p> <p>15 from your files for purposes of this litigation?</p> <p>16 MR. MCBIRNEY: Object to the form of the</p> <p>17 question.</p> <p>18 THE WITNESS: Not to my recollection.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Okay. Do you know who, if anybody</p> <p>21 within the Navy, helped collect documents from</p> <p>22 your files for purposes of this litigation?</p> <p>23 A. I'm not certain if that would be</p> <p>24 privileged information.</p> <p>25 MR. MCBIRNEY: Hold on one second.</p>	<p style="text-align: right;">Page 81</p> <p>1 privileged, so I'm instructing him not to answer</p> <p>2 based on his understanding that it may be</p> <p>3 privileged.</p> <p>4 THE WITNESS: Could I have a break to</p> <p>5 discuss this?</p> <p>6 MR. MCBIRNEY: Is that all right?</p> <p>7 MS. GOODMAN: Sure.</p> <p>8 THE VIDEOGRAPHER: Time is 11:31 a.m.</p> <p>9 We're off the record.</p> <p>10 (Recess taken.)</p> <p>11 THE VIDEOGRAPHER: The time is 11:37</p> <p>12 a.m. We're on the record.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Mr. Owens, who within the Navy helped</p> <p>15 collect documents from your files for purposes of</p> <p>16 this litigation?</p> <p>17 A. To my knowledge, the DOJ counsel worked</p> <p>18 with my IT department to capture emails as well</p> <p>19 as files.</p> <p>20 Q. And did you discuss that on the break</p> <p>21 with your counsel?</p> <p>22 MR. MCBIRNEY: You could answer that yes</p> <p>23 or no.</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MS. GOODMAN:</p>

<p style="text-align: right;">Page 82</p> <p>1 Q. And, to your knowledge, did IT search</p> <p>2 your work iPad for responsive documents?</p> <p>3 MR. MCBIRNEY: Objection; foundation.</p> <p>4 THE WITNESS: Not to my knowledge.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Okay. How about with respect to your</p> <p>7 work cell phone?</p> <p>8 MR. MCBIRNEY: Same objection.</p> <p>9 THE WITNESS: Not to my knowledge.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. How about with respect to your personal</p> <p>12 email?</p> <p>13 A. Not to my knowledge.</p> <p>14 Q. To your knowledge, when did the DOJ</p> <p>15 counsel work with IT to capture emails as well as</p> <p>16 files?</p> <p>17 A. I don't remember exact time frames.</p> <p>18 Earlier this year.</p> <p>19 Q. Other than earlier this year, do you</p> <p>20 have any more specific recollection of when DOJ</p> <p>21 worked with IT to collect documents from your</p> <p>22 files?</p> <p>23 A. I do not.</p> <p>24 Q. Have you ever -- have you received a</p> <p>25 litigation hold related to this lawsuit?</p>	<p style="text-align: right;">Page 84</p> <p>1 him to preserve documents is privileged.</p> <p>2 MS. GOODMAN: You're just absolutely</p> <p>3 wrong on that. You really are.</p> <p>4 MR. MCBIRNEY: I appreciate your</p> <p>5 position.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. What is your practice with respect to</p> <p>8 retaining documents?</p> <p>9 A. Can you be more specific?</p> <p>10 Q. Do you delete documents in the course of</p> <p>11 your work?</p> <p>12 MR. MCBIRNEY: Objection; vague.</p> <p>13 THE WITNESS: On occasion I may delete</p> <p>14 documents.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. What occasions do you delete documents?</p> <p>17 A. If a file's extremely large and no</p> <p>18 longer needed.</p> <p>19 Q. Okay. Have you maintained the practice</p> <p>20 of poten -- occasionally deleting documents</p> <p>21 throughout 2023?</p> <p>22 MR. MCBIRNEY: Objection; vague.</p> <p>23 THE WITNESS: Yeah. As a standard</p> <p>24 practice, I don't believe I've deleted many</p> <p>25 documents this year as -- but -- there -- there</p>
<p style="text-align: right;">Page 83</p> <p>1 MR. MCBIRNEY: I'm going to instruct the</p> <p>2 witness not to answer that question. That's</p> <p>3 privileged information.</p> <p>4 MS. GOODMAN: Whether he received a</p> <p>5 litigation hold when your obligations are to</p> <p>6 preserve relevant documents?</p> <p>7 MR. MCBIRNEY: You can ask him if he</p> <p>8 preserved relevant documents. I think you have.</p> <p>9 Whether he received from counsel a litigation</p> <p>10 hold is privileged.</p> <p>11 MS. GOODMAN: That is not. That is the</p> <p>12 same thing that would be on a privilege log, and,</p> <p>13 in fact, I've seen it on privileged logs produced</p> <p>14 by the Department of Justice on behalf of ATR</p> <p>15 as well as on behalf of the federal agency</p> <p>16 advertisers. The fact of receiving a litigation</p> <p>17 hold is not a privileged fact or work product.</p> <p>18 MR. MCBIRNEY: First of all, the fact</p> <p>19 that the privilege may not be invoked in every</p> <p>20 instance does not mean that it is not privileged.</p> <p>21 Whether he received a litigation hold from</p> <p>22 counsel is a privileged communication. You can</p> <p>23 ask him what he did to preserve documents. You</p> <p>24 can ask him what was done to collect documents.</p> <p>25 I think you have. But whether counsel directed</p>	<p style="text-align: right;">Page 85</p> <p>1 may be an occasion where I might have, but not to</p> <p>2 my recollection.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. So it is possible that you've deleted</p> <p>5 documents in 2023 related to work, correct?</p> <p>6 MR. MCBIRNEY: Object to the form of the</p> <p>7 question.</p> <p>8 THE WITNESS: There's a possibility.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Okay. Under Navy's -- are you aware of</p> <p>11 any document retention policies at the Navy?</p> <p>12 A. Yes.</p> <p>13 Q. And what do those policies provide?</p> <p>14 A. Sitting here today, I don't recall the</p> <p>15 exact stipulations in those policies.</p> <p>16 Q. How about generally? What do you recall</p> <p>17 as to what those document retention policies</p> <p>18 state?</p> <p>19 A. Sitting here today, I -- I don't recall.</p> <p>20 Q. Okay. To your knowledge, do the</p> <p>21 document retention policies permit you to delete</p> <p>22 files?</p> <p>23 MR. MCBIRNEY: Objection; vague.</p> <p>24 THE WITNESS: Yeah. Sitting here today,</p> <p>25 I don't recall the stipulations of that policy.</p>

<p style="text-align: right;">Page 86</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. And thus you don't recall whether they</p> <p>3 permit you to delete files, correct?</p> <p>4 MR. MCBIRNEY: Objection. Asked and</p> <p>5 answered.</p> <p>6 THE WITNESS: Yeah. My testimony is,</p> <p>7 sitting here today, I do not recall the exact</p> <p>8 stipulations of that policy.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And, therefore, correct, you don't</p> <p>11 recall whether those policies permit you to</p> <p>12 delete files?</p> <p>13 MR. MCBIRNEY: Objection.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. Is that accurate?</p> <p>16 MR. MCBIRNEY: Objection. Asked and</p> <p>17 answered.</p> <p>18 THE WITNESS: Yeah. So my testimony is,</p> <p>19 sitting here today, I do not recall the exact</p> <p>20 stipulations of that policy.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. Okay. And so you can't answer whether,</p> <p>23 as a result of your inability to recall the exact</p> <p>24 stipulations of this -- of the policy, you cannot</p> <p>25 an -- you don't recall whether or not that policy</p>	<p style="text-align: right;">Page 88</p> <p>1 direction of a lawyer, that's privileged and I'd</p> <p>2 instruct you not to answer. If you received</p> <p>3 communications about preserving documents that do</p> <p>4 not fall into those categories and you are</p> <p>5 confident that they do not come from counsel, you</p> <p>6 can answer.</p> <p>7 THE WITNESS: Yeah. Then I cannot</p> <p>8 answer the question without revealing privileged</p> <p>9 conversations.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. And for the record -- and this is a yes</p> <p>12 or no question -- have you received any direction</p> <p>13 from anybody with respect to preserving documents</p> <p>14 related to this litigation?</p> <p>15 MR. MCBIRNEY: You can answer that yes</p> <p>16 or no.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. When did you receive such direction?</p> <p>20 A. I don't recall the exact time frame.</p> <p>21 Earlier this year in 2023.</p> <p>22 Q. Was it before or after you learned about</p> <p>23 this lawsuit?</p> <p>24 A. I don't recall.</p> <p>25 Q. Prior to this lawsuit, have you ever</p>
<p style="text-align: right;">Page 87</p> <p>1 permits you to delete files. Is that accurate?</p> <p>2 MR. MCBIRNEY: Objection. Asked and</p> <p>3 answered.</p> <p>4 THE WITNESS: So it's my testimony that,</p> <p>5 sitting here today, I don't recall the specific</p> <p>6 stipulations of that policy.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Okay. And, therefore, you can't testify</p> <p>9 one way or another to what that policy says with</p> <p>10 respect to the deletion of files, correct?</p> <p>11 MR. MCBIRNEY: Objection. Asked and</p> <p>12 answered.</p> <p>13 THE WITNESS: Yeah. Those were not my</p> <p>14 words. I said, sitting here today, I don't</p> <p>15 remember the exact stipulations of the policy.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Other than a lawyer, has anybody told</p> <p>18 you anything about preserving documents with</p> <p>19 respect to this litigation?</p> <p>20 THE WITNESS: I'm not sure of the</p> <p>21 communications I received, whether those would be</p> <p>22 privileged or not.</p> <p>23 MR. MCBIRNEY: If you received</p> <p>24 communications regarding preserving documents</p> <p>25 that were either from a lawyer or at the</p>	<p style="text-align: right;">Page 89</p> <p>1 requested legal advice from the Department of</p> <p>2 Justice Antitrust Division?</p> <p>3 A. No.</p> <p>4 Q. Prior to learning about this lawsuit,</p> <p>5 have you ever requested legal advice from the</p> <p>6 Department of Justice Antitrust Division?</p> <p>7 A. No.</p> <p>8 Q. Since receiving instructions with</p> <p>9 respect to preserving documents related to this</p> <p>10 litigation, have you deleted any documents on any</p> <p>11 of your devices?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. So you've testified that VMLY&R is the</p> <p>14 ad agency for the Navy; is that correct?</p> <p>15 A. That is correct.</p> <p>16 Q. And they have been the ad agency for the</p> <p>17 Navy since, approximately, 2016. Is that</p> <p>18 accurate?</p> <p>19 A. They have been the ad agency since</p> <p>20 approximately 2016, yes.</p> <p>21 Q. Okay. And their contract with the Navy</p> <p>22 was renewed or reentered into in 2021. Is that</p> <p>23 accurate?</p> <p>24 A. Yes, it was renewed in 2021.</p> <p>25 Q. Okay. Other than the VMLY&R, is there</p>

<p style="text-align: right;">Page 90</p> <p>1 any other agency -- ad agency engaged by the</p> <p>2 Naval -- Navy Recruiting Command related to</p> <p>3 advertising?</p> <p>4 MR. MCBIRNEY: Objection; foundation.</p> <p>5 THE WITNESS: Our contract is with</p> <p>6 VMLY&R. It's my understanding they have other</p> <p>7 businesses and agencies that work with them. But</p> <p>8 our contract is with VMLY&R.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And are you aware of any contract</p> <p>11 between the Navy and any other ad agency related</p> <p>12 to advertising?</p> <p>13 A. No.</p> <p>14 Q. Were you involved in the selection of</p> <p>15 VMLY&R when their contract was renewed in 2021?</p> <p>16 THE WITNESS: Am I allowed to discuss</p> <p>17 contractual selection items?</p> <p>18 MR. MCBIRNEY: You can answer that</p> <p>19 question yes or no and we'll go from there.</p> <p>20 THE WITNESS: Okay. Can you ask that</p> <p>21 question again?</p> <p>22 BY MS. GOODMAN:</p> <p>23 Q. Were you involved in the selection of</p> <p>24 VMLY&R when their contract was renewed in 2021?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 92</p> <p>1 selecting an advertising agency, what are the</p> <p>2 things that you looked for in the non-price</p> <p>3 proposals that mattered to you in selecting a</p> <p>4 business to contract with?</p> <p>5 A. Sure. I don't recall the specific</p> <p>6 criteria. That was a few years ago.</p> <p>7 Q. How about generally? What do you</p> <p>8 recall what mattered to you in terms of non-price</p> <p>9 proposals when selecting an ad agency?</p> <p>10 A. In general, that they demonstrated in</p> <p>11 their write-up a thorough understanding of the</p> <p>12 requirement and ability to meet the requirement.</p> <p>13 Q. And what was the requirement that the</p> <p>14 Navy put forward with respect to finding a</p> <p>15 contractor related to advertising?</p> <p>16 A. Sure. It was a -- a work statement that</p> <p>17 was issued -- multi-page work statement.</p> <p>18 Q. What are the kinds of things that the</p> <p>19 Navy wanted from an advertiser?</p> <p>20 MR. MCBIRNEY: Objection; vague.</p> <p>21 THE WITNESS: Yeah. Sitting here today,</p> <p>22 I -- I don't recall the specifics contained in</p> <p>23 that work statement, --</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. How about generally?</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. What was your involvement?</p> <p>2 A. I was on the panel of folks reviewing</p> <p>3 the non-price proposals from all vendors.</p> <p>4 Q. And when you say "reviewing the</p> <p>5 non-price proposals," what do you mean by that?</p> <p>6 A. So to review -- so when a contract is</p> <p>7 renewed, multiple businesses can apply for that</p> <p>8 contract, and non-price proposals are part of</p> <p>9 that bidding process. And then a board of people</p> <p>10 will look at that and review those, and I was on</p> <p>11 that panel.</p> <p>12 Q. What are the kinds of non-price</p> <p>13 proposals that are put forward as part of that</p> <p>14 bid -- bidding process?</p> <p>15 MR. MCBIRNEY: Object to the form of the</p> <p>16 question.</p> <p>17 THE WITNESS: You'd have to be more</p> <p>18 specific. I'm sorry.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Well, what do you mean by non-price</p> <p>21 proposals? What do those entail?</p> <p>22 A. Those are proposals of how the vendor or</p> <p>23 the business would satisfy the requirements given</p> <p>24 in the work statement in the RFQ.</p> <p>25 Q. And so specifically with respect to</p>	<p style="text-align: right;">Page 93</p> <p>1 A. -- but it was for advertising services.</p> <p>2 Q. Okay. And so what kind of things are</p> <p>3 important to you when you're selecting a ad</p> <p>4 agency to provide advertising services?</p> <p>5 MR. MCBIRNEY: Objection; form and asked</p> <p>6 and answered.</p> <p>7 THE WITNESS: In general, that they</p> <p>8 have a demonstrated ability to perform and an</p> <p>9 understanding of those requirements that are</p> <p>10 contained in the work statement document.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. What requirements, if any, do you</p> <p>13 recall that were contained in the work statement</p> <p>14 document put out by the Navy with respect to</p> <p>15 advertising?</p> <p>16 A. Yeah. That was -- that was a large</p> <p>17 document over two years ago. I don't recall the</p> <p>18 specifics of that document.</p> <p>19 Q. How about generally?</p> <p>20 A. Generally, as I testified a moment ago,</p> <p>21 that they have a thorough understanding of -- of</p> <p>22 the requirements in there and that they have a</p> <p>23 demonstrated ability to perform those</p> <p>24 requirements.</p> <p>25 Q. Right. My question is what, if</p>

<p style="text-align: right;">Page 94</p> <p>1 anything, do you generally recall about what the</p> <p>2 requirements were?</p> <p>3 MR. MCBIRNEY: Objection. Asked and</p> <p>4 answered.</p> <p>5 THE WITNESS: Yeah. I would be</p> <p>6 assuming, and -- and I don't want to do that.</p> <p>7 I -- I can't -- I can't remember specifics from</p> <p>8 that document.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And can you remember anything generally</p> <p>11 with respect to the work requirements the Navy</p> <p>12 -- that the Navy put out with respect to</p> <p>13 selecting an advertiser -- ad agency, I should</p> <p>14 say?</p> <p>15 A. I cannot.</p> <p>16 Q. Okay. Who was involved in evaluating</p> <p>17 the price proposal as part of the process to</p> <p>18 select an ad agency?</p> <p>19 A. It's my understanding that that was</p> <p>20 done at the FLC, Fleet Logistics Center --</p> <p>21 Q. And who --</p> <p>22 A. -- by the contracting officer.</p> <p>23 Q. Who was the contracting officer at the</p> <p>24 Fleet Logistics Center evaluating the price</p> <p>25 proposal?</p>	<p style="text-align: right;">Page 96</p> <p>1 taking over that role in March of 2020, you had</p> <p>2 experience working with VMYL&R, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And so what -- what, if</p> <p>5 anything, based on that experience, did you find</p> <p>6 significant with respect to selecting VMLY&R for</p> <p>7 a contract renewal?</p> <p>8 MR. MCBIRNEY: Objection. Assumes</p> <p>9 facts. Vague.</p> <p>10 THE WITNESS: Yeah. I -- I don't</p> <p>11 recall the specifics of the review of the</p> <p>12 non-price proposals and what was considered and</p> <p>13 what was put down there.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. Is there a reason you were not involved</p> <p>16 in evaluating the pricing proposal for this</p> <p>17 contract selection?</p> <p>18 MR. MCBIRNEY: Objection. Assumes</p> <p>19 facts.</p> <p>20 THE WITNESS: Yeah. I -- I'm not</p> <p>21 certain why that's the case. I just know that to</p> <p>22 be the case, is that we were reviewing the</p> <p>23 non-price proposal.</p> <p>24 MS. GOODMAN: Can I have 22?</p> <p>25 I'm marking Exhibit 53 NAVY-ADS256935</p>
<p style="text-align: right;">Page 95</p> <p>1 A. I believe it was Ms. Lozzi.</p> <p>2 Q. Did you have any conversations with</p> <p>3 Ms. Lozzi with respect to the price proposal put</p> <p>4 forward by various businesses at this time?</p> <p>5 A. No.</p> <p>6 MR. MCBIRNEY: Object to the form of the</p> <p>7 question.</p> <p>8 Make sure you wait for me.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Did you review the price proposal</p> <p>11 submitted by VMYL&R as part of the 2021 contract</p> <p>12 selection process?</p> <p>13 A. I do not believe so.</p> <p>14 Q. Did you review the non-price proposal</p> <p>15 put forward by them?</p> <p>16 A. Yes.</p> <p>17 Q. Prior to the contract selection process,</p> <p>18 you had experience working with VMYL&R, correct?</p> <p>19 A. Can you be more specific?</p> <p>20 Q. So in March of 2020 when you took on the</p> <p>21 job as deputy director of marketing, VMYL&R was</p> <p>22 the contractor providing ad services, correct?</p> <p>23 A. Yes. VMLY&R was the contractor at -- at</p> <p>24 the time when I took over in March of 2020, yes.</p> <p>25 Q. Okay. And so as a result of your</p>	<p style="text-align: right;">Page 97</p> <p>1 through 257031.</p> <p>2 (Exhibit No. 53, a document Bates</p> <p>3 Numbered NAVY-ADS256935 through NAVY-ADS257031,</p> <p>4 was introduced.)</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And, sir, do you recognize this as the</p> <p>7 contract entered into between the Navy and VMYL&R</p> <p>8 in 2021?</p> <p>9 A. I'm going to need a moment to just</p> <p>10 review this.</p> <p>11 Q. Sure.</p> <p>12 A. (Reviews document.)</p> <p>13 Okay. Can you ask that question again?</p> <p>14 Q. Yes. Do you recognize Exhibit 53 as the</p> <p>15 contract entered into between the Navy and VMYL&R</p> <p>16 in 2021?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. Except it may be that it was with Y&R</p> <p>20 at the time. I believe there was a name change</p> <p>21 during the course.</p> <p>22 Q. So Y&R, you're referring to in Box 17a.</p> <p>23 where it says Young & Rubicam; is that right?</p> <p>24 A. Correct.</p> <p>25 Q. And Young & Rubicam at some point became</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 202</p> <p>1 wanted to change that 520k from Trade Desk to</p> <p>2 either YouTube, Amazon or anything else, --</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Okay.</p> <p>5 A. -- but that within the realms of the</p> <p>6 Trade Desk they would be able to allocate it</p> <p>7 according to how this reads.</p> <p>8 Q. And if they wanted to make adjustments</p> <p>9 in realtime to switch, for example, between</p> <p>10 Connected TV on the Trade Desk and banner ads on</p> <p>11 the Trade Desk, they had authority to do that</p> <p>12 so long as they stayed within the \$520,000</p> <p>13 authorized. Is that accurate?</p> <p>14 A. Yeah. My -- my testimony is that if</p> <p>15 they were going to deviate from the Trade Desk to</p> <p>16 any of the other companies, they would need to</p> <p>17 seek approval. But, otherwise, they would not.</p> <p>18 Q. And so, therefore, in the circumstance</p> <p>19 I'm describing, which is limited to spending</p> <p>20 money via the Trade Desk, okay, if VMLY&R thought</p> <p>21 it best to move \$1 from Connected TV on the Trade</p> <p>22 Desk to \$1 on banner ads on the Trade Desk as</p> <p>23 they are watching how the campaign is performing,</p> <p>24 they had the authority to do so without seeking</p> <p>25 your approval, correct?</p>	<p style="text-align: right;">Page 204</p> <p>1 so long as VMLY&R adheres to the approved plan,</p> <p>2 they do not need to seek my approval.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. And do you know, is it VMLY&R who</p> <p>5 are -- who is making these realtime optimization</p> <p>6 decisions, or is it somebody else?</p> <p>7 MR. MCBIRNEY: Objection; vague.</p> <p>8 THE WITNESS: Yeah. I don't know the</p> <p>9 exact person who's making optimizations.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Do you know what company that the person</p> <p>12 who makes the optimizations works for, whether it</p> <p>13 be VMLY&R or Wavemaker or somebody else?</p> <p>14 A. I'm not privy to the exact legal</p> <p>15 business relationship between Wavemaker and</p> <p>16 VMLY&R, but I know that per my contract with</p> <p>17 VMLY&R that they would have someone on the team</p> <p>18 making these realtime optimizations.</p> <p>19 Q. Okay. I'm not asking about the business</p> <p>20 relationship or the legal relationship. I'm</p> <p>21 asking whether you know, in your capacity as the</p> <p>22 director of marketing based on your experience</p> <p>23 working in that job on these digital ad buys over</p> <p>24 the last three-plus years, do you know who makes</p> <p>25 the realtime optimization decisions?</p>
<p style="text-align: right;">Page 203</p> <p>1 MR. MCBIRNEY: Objection. Asked and</p> <p>2 answered.</p> <p>3 THE WITNESS: My testimony, as I've</p> <p>4 stated, is that if the ad agency, VMLY&R, was to</p> <p>5 deviate from this approved plan they would need</p> <p>6 to seek my approval; however, if they are not</p> <p>7 deviating from what's stated in this approved</p> <p>8 plan, they would not need to seek my approval.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. So the answer is yes.</p> <p>11 MR. MCBIRNEY: Objection. Asked and</p> <p>12 answered. Mischaracterizes the testimony.</p> <p>13 THE WITNESS: Again, my testimony is if</p> <p>14 they're going to deviate from an approved plan,</p> <p>15 they would seek my approval. Otherwise, they</p> <p>16 would not have to seek my approval.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay. Therefore, they don't need</p> <p>19 to seek your approval in order to move \$1 from</p> <p>20 Online Banner ads to Connected TV so long as that</p> <p>21 single dollar is within the \$520,000 approved in</p> <p>22 this particular instance. Is that accurate?</p> <p>23 MR. MCBIRNEY: Objection. Asked and</p> <p>24 answered. Mischaracterizes testimony.</p> <p>25 THE WITNESS: So it's my testimony that</p>	<p style="text-align: right;">Page 205</p> <p>1 A. I -- sitting here today, I do not know</p> <p>2 who makes that realtime optimization.</p> <p>3 Q. Okay. Do you know, not their name, but</p> <p>4 the company for which they work?</p> <p>5 MR. MCBIRNEY: Objection; vague.</p> <p>6 THE WITNESS: Yeah. I -- sitting here</p> <p>7 today, I can't be certain if it would be VMLY&R</p> <p>8 or Wavemaker.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Okay. And could it be somebody at the</p> <p>11 Trade Desk making those realtime optimization</p> <p>12 decisions?</p> <p>13 MR. MCBIRNEY: Objection; foundation.</p> <p>14 THE WITNESS: Sitting here today, I</p> <p>15 don't know.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Okay. Let's go back to that spreadsheet</p> <p>18 attached to Exhibit 58. I just have one question</p> <p>19 at the end of it.</p> <p>20 A. Sure.</p> <p>21 Q. When we were looking at the</p> <p>22 Recommended Partners, the one on the first page</p> <p>23 of this spreadsheet, --</p> <p>24 A. Yes.</p> <p>25 Q. -- it's accurate that these are all</p>

<p style="text-align: right;">Page 206</p> <p>1 partners that the Navy is using at the same</p> <p>2 time with respect to digital ad spend. Is that</p> <p>3 accurate?</p> <p>4 A. Maybe not exactly the way you described,</p> <p>5 because it's broken down into months.</p> <p>6 Q. Okay.</p> <p>7 A. So, for instance, YouTube Masthead looks</p> <p>8 to appear in September but not July and August.</p> <p>9 Q. Okay. So the -- the companies or part</p> <p>10 -- partners who have dollars allocated to them in</p> <p>11 the month of September, those are all being used</p> <p>12 at the same time. Is that accurate?</p> <p>13 A. Sitting here today, to the best of my</p> <p>14 knowledge, yes.</p> <p>15 MS. GOODMAN: Okay. Shall we take a</p> <p>16 break?</p> <p>17 MR. MCBIRNEY: Sure.</p> <p>18 THE VIDEOGRAPHER: The time is 4:37 p m.</p> <p>19 This ends Unit 4. We're off the record.</p> <p>20 (Recess taken.)</p> <p>21 THE VIDEOGRAPHER: The time is 4:54 p m.</p> <p>22 This begins Unit Number 5. We're on the record.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. Mr. Owens, have you heard the term Open</p> <p>25 Web Display advertising?</p>	<p style="text-align: right;">Page 208</p> <p>1 advertising?</p> <p>2 A. Sure. Display advertising could be ads</p> <p>3 placed on unique individual websites.</p> <p>4 (Whereupon realtime feed froze due to</p> <p>5 internet disconnection.)</p> <p>6 THE REPORTER: I think it stopped. Can</p> <p>7 we --</p> <p>8 MS. GOODMAN: Yeah. Let's take a break.</p> <p>9 THE VIDEOGRAPHER: The time is 4:57 p m.</p> <p>10 We're going off the record.</p> <p>11 (Recess taken.)</p> <p>12 THE VIDEOGRAPHER: The time is 5:03 p m.</p> <p>13 We're on the record.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. Mr. Owens, does the term Display</p> <p>16 Advertising, as you understand it, include</p> <p>17 placing ads on websites through a direct deal</p> <p>18 between the publisher and the advertiser?</p> <p>19 MR. MCBIRNEY: Objection; foundation.</p> <p>20 THE WITNESS: Display Advertising, as I</p> <p>21 know it, is advertising by the use of display</p> <p>22 ads, to my knowledge.</p> <p>23 BY MS. GOODMAN:</p> <p>24 Q. Okay. And, to your knowledge, just</p> <p>25 again for the record, what is your understanding</p>
<p style="text-align: right;">Page 207</p> <p>1 A. I have heard that term.</p> <p>2 Q. What do you understand it to mean?</p> <p>3 A. I'm not certain the exact meaning of</p> <p>4 Open Web Display advertising.</p> <p>5 Q. Aside from its exact meaning, what do</p> <p>6 you generally understand that term to mean?</p> <p>7 A. I generally understand it to mean</p> <p>8 display advertising.</p> <p>9 Q. And when you say "display advertising,"</p> <p>10 what do you mean by that?</p> <p>11 A. Placement of display ads.</p> <p>12 Q. And does display advertising include</p> <p>13 placement of display ads on the New York Times,</p> <p>14 if they're purchased directly from the New York</p> <p>15 Times?</p> <p>16 MR. MCBIRNEY: Objection; foundation.</p> <p>17 THE WITNESS: Yeah. I -- again, I don't</p> <p>18 have a -- a firm enough understanding of that</p> <p>19 term specifically to -- to answer in any more</p> <p>20 detail than that.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. Okay. Are you aware of any different</p> <p>23 kinds of display ads or -- when you -- strike</p> <p>24 that.</p> <p>25 Can you give any examples of display</p>	<p style="text-align: right;">Page 209</p> <p>1 of the term Open Web Display Advertising?</p> <p>2 MR. MCBIRNEY: Objection; foundation.</p> <p>3 Asked and answered.</p> <p>4 THE WITNESS: As I testified, I'm</p> <p>5 familiar with the term; however, I don't know the</p> <p>6 definition of Open Web Display Advertising.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. How are you familiar with the term Open</p> <p>9 Web Display Advertising?</p> <p>10 A. I've -- I've seen the term. But,</p> <p>11 again, I -- I can't describe to you exactly the</p> <p>12 definition of that. But, in general terms, I</p> <p>13 understand it to be, as stated earlier, Display</p> <p>14 Advertising.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. Where have you seen the term Open</p> <p>17 Web Display Advertising?</p> <p>18 A. I can't recollect exactly where I saw</p> <p>19 it.</p> <p>20 Q. Generally speaking, can you describe</p> <p>21 anywhere you've seen the term Open Web Display</p> <p>22 Advertising, such as in emails or documents</p> <p>23 with your ad agency, on -- on other websites</p> <p>24 discussing the advertising industry, any place</p> <p>25 that you recall seeing that term?</p>

<p style="text-align: right;">Page 210</p> <p>1 MR. MCBIRNEY: Object to form.</p> <p>2 THE WITNESS: Sitting here today, I -- I</p> <p>3 cannot remember where I've seen that term.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Do you recall ever seeing it in any</p> <p>6 documents provided to you by VMLY&R?</p> <p>7 A. As mentioned a moment ago, I cannot</p> <p>8 recall where I've seen the term.</p> <p>9 Q. And, thus, you don't know whether you've</p> <p>10 seen it in any documents provided by VMLY&R,</p> <p>11 correct?</p> <p>12 MR. MCBIRNEY: Objection. Asked and</p> <p>13 answered. Mischaracterizes the testimony.</p> <p>14 THE WITNESS: Yeah. As I -- as I</p> <p>15 testified, I don't recollect where I've seen the</p> <p>16 term.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay. Have you had any discussions</p> <p>19 with anybody about the term Open Web Display</p> <p>20 Advertising and what it means?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. Prior to the filing of this lawsuit</p> <p>23 in January of 2023, were you aware of any</p> <p>24 anticompetitive conduct on the part of Google</p> <p>25 affecting Navy's advertising?</p>	<p style="text-align: right;">Page 212</p> <p>1 MR. MCBIRNEY: Objection. Assumes</p> <p>2 facts.</p> <p>3 THE WITNESS: Oftentimes, a lot of the</p> <p>4 businesses that we use will be referred to as a</p> <p>5 partner if we're doing business with them, so</p> <p>6 I -- I may have referred to Google as a partner.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Has Google helped the Navy with respect</p> <p>9 to recruiting more sailors to join?</p> <p>10 MR. MCBIRNEY: Objection; foundation.</p> <p>11 THE WITNESS: We have found lots of</p> <p>12 value in many of the Google buys that we've done.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. And the Google buys that you've done</p> <p>15 that you've found value in, does that relate to</p> <p>16 YouTube buys?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And how about with respect to</p> <p>19 search?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Can you describe in any more</p> <p>22 detail the value that you have found in many of</p> <p>23 the Google buys that the Navy has done?</p> <p>24 A. In particular, some of the YouTube</p> <p>25 activations we've had have had extremely high</p>
<p style="text-align: right;">Page 211</p> <p>1 MR. MCBIRNEY: You can answer that</p> <p>2 question to the extent it does not disclose</p> <p>3 communications with counsel.</p> <p>4 THE WITNESS: To my knowledge, no.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And how about prior to this lawsuit,</p> <p>7 did you ever have any concerns in your capacity</p> <p>8 as the director of marketing for the Navy</p> <p>9 Recruiting Command that Google was engaging in</p> <p>10 anticompetitive conduct related to digital</p> <p>11 advertising?</p> <p>12 MR. MCBIRNEY: Objection to foundation.</p> <p>13 THE WITNESS: Prior to this, I had no</p> <p>14 knowledge of nor reason to suspect that of</p> <p>15 Google.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Prior to this lawsuit, did you have</p> <p>18 ever -- did you ever have any concerns that</p> <p>19 Google was engaging in any conduct that was</p> <p>20 causing the Navy harm with respect to its digital</p> <p>21 advertising?</p> <p>22 A. Sitting here today, I can -- I can think</p> <p>23 of no reason to believe that.</p> <p>24 Q. You described Google, in fact, as a</p> <p>25 partner of the Navy, right?</p>	<p style="text-align: right;">Page 213</p> <p>1 video completion rates.</p> <p>2 Q. Any other --</p> <p>3 THE VIDEOGRAPHER: Counsel, the Zoom's</p> <p>4 offline.</p> <p>5 MS. GOODMAN: Let's take a break.</p> <p>6 MR. MCBIRNEY: We're going to be here a</p> <p>7 while.</p> <p>8 THE VIDEOGRAPHER: The time is 5:07 p m.</p> <p>9 We're going off the record.</p> <p>10 (Recess taken.)</p> <p>11 THE VIDEOGRAPHER: Time is 5:14 p.m.</p> <p>12 We're on the record.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Mr. Owens, can you describe any other</p> <p>15 instances that the Navy has found value in any of</p> <p>16 the Google buys that it has done?</p> <p>17 A. Paid search, as well. We've found value</p> <p>18 there.</p> <p>19 I don't have a list at the ready, but</p> <p>20 -- but there's -- it's been on many occasions.</p> <p>21 Q. Can you approximate the number of</p> <p>22 occasions that you've found value in Google buys</p> <p>23 for the Navy?</p> <p>24 MR. MCBIRNEY: Objection; foundation.</p> <p>25 THE WITNESS: Yeah. I -- I can't</p>

<p style="text-align: right;">Page 214</p> <p>1 provide an exact number or even a general number.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. Just many?</p> <p>4 A. Yes.</p> <p>5 Q. Has anybody at VMLY&R ever told you that</p> <p>6 Google was engaging in anticompetitive conduct</p> <p>7 with respect to digital advertising?</p> <p>8 A. No.</p> <p>9 Q. Did anybody at Wavemaker ever tell you</p> <p>10 that Google was engaging in anticompetitive</p> <p>11 conduct with respect to digital advertising?</p> <p>12 A. No.</p> <p>13 Q. Has anyone ever told you that Google is</p> <p>14 engaging in anticompetitive conduct with respect</p> <p>15 to digital advertising.</p> <p>16 MR. MCBIRNEY: I interpret that to mean</p> <p>17 anyone other than the attorneys. You can answer</p> <p>18 to the extent --</p> <p>19 MS. GOODMAN: The question is the</p> <p>20 question.</p> <p>21 MR. MCBIRNEY: Okay. Well, then I would</p> <p>22 instruct the witness not to answer to the extent</p> <p>23 it requires divulging privileged communication.</p> <p>24 THE WITNESS: I'm going to listen to my</p> <p>25 counsel --</p>	<p style="text-align: right;">Page 216</p> <p>1 MS. GOODMAN: Make your instruction.</p> <p>2 Don't tell me how to ask my questions, please.</p> <p>3 MR. MCBIRNEY: I'm instructing the</p> <p>4 witness not to answer your improper question.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Are you following that instruction, sir?</p> <p>7 A. I'm following the instruct of my</p> <p>8 counsel.</p> <p>9 Q. Okay. Other than any lawyer, has</p> <p>10 anybody ever told you, Mr. Owens, that Google has</p> <p>11 engaged in anticompetitive conduct with respect</p> <p>12 to digital advertising?</p> <p>13 A. No.</p> <p>14 Q. To the extent you have any knowledge of</p> <p>15 any anticompetitive conduct on the part of Google</p> <p>16 with respect to digital advertising, does it come</p> <p>17 only through conversations with lawyers?</p> <p>18 MR. MCBIRNEY: Objection. I'm going to</p> <p>19 instruct the witness not to answer that question.</p> <p>20 THE WITNESS: I'm going to listen to my</p> <p>21 counsel.</p> <p>22 BY MS. GOODMAN:</p> <p>23 Q. Okay. Sitting here today, do you have</p> <p>24 any concerns that the Navy -- strike that.</p> <p>25 Sitting here today, do you have any</p>
<p style="text-align: right;">Page 215</p> <p>1 MS. GOODMAN: Okay.</p> <p>2 THE WITNESS: -- and not provide the</p> <p>3 privileged communication.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. Yes or no question: Has</p> <p>6 anyone ever told you that Google is engaging in</p> <p>7 anticompetitive conduct with respect to digital</p> <p>8 advertising.</p> <p>9 MR. MCBIRNEY: If you want to ask him</p> <p>10 whether anyone other than his attorneys told him</p> <p>11 that, he can answer that question. But I'm not</p> <p>12 -- I'm instructing him not to answer that</p> <p>13 question.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q. I'm not asking for the identity of who.</p> <p>16 It's a -- it's a yes or no question as to whether</p> <p>17 any human on this earth --</p> <p>18 MR. MCBIRNEY: I understand.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. -- has ever told you, Mr. Owens, that</p> <p>21 Google has engaged in anticompetitive conduct</p> <p>22 with respect to digital advertising?</p> <p>23 MR. MCBIRNEY: And I'm going to instruct</p> <p>24 the witness not to answer that question. If you</p> <p>25 want to limit your question to exclude counsel --</p>	<p style="text-align: right;">Page 217</p> <p>1 concerns that Google has harmed the Navy?</p> <p>2 MR. MCBIRNEY: Objection; vague.</p> <p>3 THE WITNESS: Can you be more specific</p> <p>4 with the question?</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Sitting here today, do you have any</p> <p>7 concerns that Google has engaged in any conduct</p> <p>8 that hurt -- harms the Navy?</p> <p>9 MR. MCBIRNEY: Objection; vague.</p> <p>10 THE WITNESS: Aside from the reason why</p> <p>11 I'm here today, I have no reason to believe that</p> <p>12 Google has harmed the Navy in any other way.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Okay. And when you say "the reason why</p> <p>15 I'm here today," what do you mean?</p> <p>16 A. In relation to this deposition.</p> <p>17 Q. Okay. Can you tell me any reasons</p> <p>18 -- strike that.</p> <p>19 Can you tell me any information about</p> <p>20 how, if at all, Google has harmed the Navy?</p> <p>21 MR. MCBIRNEY: Objection to the form and</p> <p>22 foundation.</p> <p>23 THE WITNESS: I guess am I able to</p> <p>24 answer that question without divulging any</p> <p>25 privileged communication?</p>

55 (Pages 214 - 217)

<p style="text-align: right;">Page 218</p> <p>1 MR. MCBIRNEY: Well, if you are able to</p> <p>2 answer that question without divulging privileged</p> <p>3 information, you can answer the question. If you</p> <p>4 are not able to answer the question without</p> <p>5 divulging privileged information, then I'd</p> <p>6 instruct you not to answer.</p> <p>7 THE WITNESS: Can you ask the question</p> <p>8 again?</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Can you tell me any information about</p> <p>11 how, if at all, Google has harmed the Navy?</p> <p>12 MR. MCBIRNEY: And, again, same</p> <p>13 objections to form and foundation.</p> <p>14 THE WITNESS: I cannot answer that</p> <p>15 question without divulging a privileged</p> <p>16 communication.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay. To your knowledge, did the Navy</p> <p>19 purchase any display advertising directly from</p> <p>20 Google?</p> <p>21 MR. MCBIRNEY: Objection. Calls for a</p> <p>22 legal conclusion.</p> <p>23 MS. GOODMAN: Read the RFA briefing.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. You may answer.</p>	<p style="text-align: right;">Page 220</p> <p>1 I say you, the Navy, to your knowledge, have any</p> <p>2 purchases been made directly, meaning between you</p> <p>3 -- the Navy -- and Google, as the two parties to</p> <p>4 the transaction, has Google -- has the Navy made</p> <p>5 any purchases of display advertising directly</p> <p>6 from Google?</p> <p>7 MR. MCBIRNEY: Objection. Asked and</p> <p>8 answered. Calls for a legal conclusion. Lack of</p> <p>9 foundation.</p> <p>10 THE WITNESS: Yeah. I'm -- I'm</p> <p>11 not a lawyer, so I'm not certain of the legal</p> <p>12 definition of "purchase directly." But I can</p> <p>13 tell you that, through our contract with VMLY&R,</p> <p>14 we have asked them to purchase media on our</p> <p>15 behalf from Google as well as other businesses.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Okay. What do you mean -- what do you</p> <p>18 understand the term "purchase" to mean just in</p> <p>19 ordinary use?</p> <p>20 A. I would define "purchase" as an exchange</p> <p>21 of resources for a good or service.</p> <p>22 Q. Okay. What do you understand the term,</p> <p>23 in ordinary use, "directly" to mean?</p> <p>24 MR. MCBIRNEY: Objection. Calls for a</p> <p>25 legal conclusion in this context.</p>
<p style="text-align: right;">Page 219</p> <p>1 MR. MCBIRNEY: And lack of foundation.</p> <p>2 THE WITNESS: So the Navy has purchased</p> <p>3 display advertising via our contract with VMLY&R,</p> <p>4 and we've asked them to purchase that on our</p> <p>5 behalf.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Okay. But my question is did the</p> <p>8 Navy -- to your knowledge, as director of</p> <p>9 marketing for the Navy Recruiting Command and as</p> <p>10 the Contracting Officer Representative, did the</p> <p>11 Navy purchase any display advertising directly</p> <p>12 -- not through VMYL&R or any other intermediary</p> <p>13 -- did the Navy purchase any display advertising</p> <p>14 directly from Google?</p> <p>15 MR. MCBIRNEY: Objection. Asked and</p> <p>16 answered. Calls for a legal conclusion, and lack</p> <p>17 of foundation.</p> <p>18 THE WITNESS: We have purchased our</p> <p>19 marketing and advertising and media from Google,</p> <p>20 as well as other companies, through our ad agency</p> <p>21 contract.</p> <p>22 BY MS. GOODMAN:</p> <p>23 Q. Okay. You're -- sir, you're not</p> <p>24 answering my question, which is whether you've</p> <p>25 purchased any display advertising -- meaning when</p>	<p style="text-align: right;">Page 221</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. I'm asking for the plain language,</p> <p>3 ordinary meaning, that you, Mr. Owens, understand</p> <p>4 the term "directly" to mean?</p> <p>5 MR. MCBIRNEY: Same objections, and</p> <p>6 vague.</p> <p>7 THE WITNESS: Can I answer the question?</p> <p>8 MR. MCBIRNEY: You can answer if you</p> <p>9 can, yeah.</p> <p>10 THE WITNESS: I would think -- I would</p> <p>11 understand directly to mean either -- I mean,</p> <p>12 between two parties.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Okay. So with your under -- with the</p> <p>15 definitions that you've provided, based on your</p> <p>16 ordinary understanding of these words of the term</p> <p>17 "purchase" and "directly," I'm going to ask you a</p> <p>18 series of questions, and I would ask you to</p> <p>19 please give me a yes or no answer.</p> <p>20 Did the Navy purchase any display</p> <p>21 advertising directly from Google?</p> <p>22 MR. MCBIRNEY: Objection. Asked and</p> <p>23 answered. Calls for a legal conclusion. Lack of</p> <p>24 foundation.</p> <p>25 THE WITNESS: The Navy purchased</p>

<p style="text-align: right;">Page 246</p> <p>1 THE WITNESS: Can you be more specific</p> <p>2 with the question?</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Can you think of any scenario or</p> <p>5 circumstance where one of your vendors for</p> <p>6 advertising services can come directly to the</p> <p>7 Navy and ask for payment and the Navy be required</p> <p>8 to make such a payment?</p> <p>9 MR. MCBIRNEY: Objection. Calls for</p> <p>10 speculation. Calls for a legal conclusion.</p> <p>11 THE WITNESS: In that scenario, was that</p> <p>12 vendor purchased via VMLY&R?</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Yes.</p> <p>15 MR. MCBIRNEY: Same objections.</p> <p>16 THE WITNESS: I mean, the vendor may</p> <p>17 come to Navy, but the Navy will only certify</p> <p>18 invoices for payment to VMLY&R as per the task</p> <p>19 order.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Okay. Have you heard of the term</p> <p>22 Campaign Manager 360?</p> <p>23 A. I believe -- I believe I may have heard</p> <p>24 of that term, but I can't remember in what</p> <p>25 context.</p>	<p style="text-align: right;">Page 248</p> <p>1 recollection as to what was discussed about the</p> <p>2 various products?</p> <p>3 A. I don't recall specifics, no, ma'am.</p> <p>4 Q. Did you enjoy the Google Marketing Live</p> <p>5 event?</p> <p>6 A. I thought it was very useful.</p> <p>7 Q. Why was it useful?</p> <p>8 A. Again, one of the major takeaways was</p> <p>9 learning about the -- the enrollment cliff coming</p> <p>10 away, which had not previously been on our radar.</p> <p>11 So it was taking what was already a recruiting</p> <p>12 crisis and kind of shov -- enabled us to look at</p> <p>13 it through another lens of what the forthcoming</p> <p>14 problems may be.</p> <p>15 Q. So is it fair to say that the Google</p> <p>16 Marketing Live event that you attended was</p> <p>17 another way in which Google provided value to the</p> <p>18 Navy?</p> <p>19 A. Yes. I would say that that was valuable</p> <p>20 to the Navy.</p> <p>21 Q. Okay. Do you recall any discussions at</p> <p>22 the Google Marketing Live event about costs in</p> <p>23 the marketing and advertising industry?</p> <p>24 A. I don't recollect that.</p> <p>25 Q. Okay. Do you have a recollection of</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. Have you seen it on any invoice</p> <p>2 provided to you under the VMLY&R contract?</p> <p>3 A. I don't know.</p> <p>4 Q. Do you know what Campaign Manager 360</p> <p>5 -- what services that provides?</p> <p>6 A. Sitting here today, I can't recollect.</p> <p>7 Q. Do you recall attending a Google</p> <p>8 Marketing Live event?</p> <p>9 A. Yes.</p> <p>10 MR. MCBIRNEY: Ob -- sorry.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. What do you recall about that event?</p> <p>13 A. I don't recall the specifics of the</p> <p>14 event.</p> <p>15 Q. How about generally?</p> <p>16 A. Generally, I remember learning about</p> <p>17 the -- the graduation cliff that's forthcoming,</p> <p>18 where we're going to have a loss of a lot of</p> <p>19 people in our target market range. I think that</p> <p>20 was one of the big takeaways from that event.</p> <p>21 Q. Okay. Do you recall learning anything</p> <p>22 about Google Ad products or services?</p> <p>23 A. I do remember that there were</p> <p>24 discussions about the various products.</p> <p>25 Q. Do you have any more specific</p>	<p style="text-align: right;">Page 249</p> <p>1 when this occurred, meaning this Google Marketing</p> <p>2 Live event?</p> <p>3 A. I believe it was during the summer of</p> <p>4 '22.</p> <p>5 Q. Do you recall speaking with anybody from</p> <p>6 Google at that event?</p> <p>7 A. I spoke with lots of people. I'm</p> <p>8 terrible at remembering names, though.</p> <p>9 Q. So sitting here today, no specific</p> <p>10 recollection of any particular Google person,</p> <p>11 whether by name or role or title, that you recall</p> <p>12 speaking with?</p> <p>13 A. No, I don't recollect anyone specific.</p> <p>14 Q. Okay. Other than individuals from</p> <p>15 Google, do you recall speaking with anybody at</p> <p>16 this event?</p> <p>17 A. I can't -- I can't recollect speaking</p> <p>18 with anyone in particular.</p> <p>19 Q. Okay. The AMAP, what does that stand</p> <p>20 for again?</p> <p>21 A. Sure. The AMAP -- we call it the AMAP</p> <p>22 -- is the Annual Marketing and Advertising Plan.</p> <p>23 Q. And is that determined over a -- the --</p> <p>24 or is that -- is the AMAP set through a yearly</p> <p>25 conference or event?</p>

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1 A. Roughly, yes. Each year it's held in
2 the August time frame to help prepare for the new
3 fiscal year which starts October 1st.

4 Q. Okay. Do you have any recollection of
5 Google participating in any AMAP?

6 A. Yes. I believe there was a Google
7 speaker who came and provided information
8 on, I believe it was, Gen Z information,
9 but information on our target market.

10 Q. Okay. Anything else you recall about
11 the Google speaker who came and provided
12 information at the AMAP?

13 A. Not that I can recollect. It's
14 a -- it's a vague recollection of that.

15 Q. Okay. Do you recall any discussions
16 about any Google products or services when that
17 Google speaker was at that event?

18 A. I don't recollect any specific product
19 or service that was discussed.

20 Q. Okay. Do you have any recollections of
21 any conversations you've had -- you've had with
22 anybody from Google about digital advertising?

23 A. Not that I can recollect.

24 Q. Do you know anybody by name at Google?

25 A. Yes.

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1 Q. Who do you know?

2 A. I'll call him Mr. Sean. I don't

3 remember the last name.

4 Q. Would that be Sean Harrison?

5 A. I think so.

6 Q. Yeah. How do you know Mr. Sean?

7 A. From -- from the various work that we've

8 done.

9 Q. What do you understand Mr. Sean's job to

10 be?

11 A. My recollection is that he was over

12 government services, but I think he went into

13 another division. I don't know what it was.

14 Q. And do you remember any work that

15 Mr. Sean has engaged in or pro -- any serve

16 -- any -- let me start over. Long day.

17 Are you -- to the best of your

18 recollection, how, if at all, has Mr. Sean helped

19 the Navy with respect to digital advertising?

20 A. My recollection is Mr. Sean has helped

21 with ad hoc information on various aspects of our

22 target market and providing information to us and

23 our agency about that.

24 Q. Do you have any knowledge or

25 recollection of any ways in which Mr. Sean has

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1 not helped the Navy?
2 A. I do not.
3 MS. GOODMAN: Okay. All right. Let's
4 take a break.
5 THE VIDEOGRAPHER: Time the 6:06 p.m.
6 This ends Unit 5. We're off the record.
7 (Recess taken.)
8 THE VIDEOGRAPHER: The time is 6:14 p m.
9 We're on the record.
10 BY MS. GOODMAN:
11 Q. Mr. Owens, do you recall reviewing
12 interrogatory responses in this case?
13 A. I can answer that question without --
14 MR. MCBIRNEY: You can answer yes or no.
15 Yep.
16 THE WITNESS: Yes.
17 BY MS. GOODMAN:
18 Q. And you signed a document saying that
19 you believed them to be truthful and accurate,
20 correct?
21 A. That is correct.
22 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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<p style="text-align: right;">Page 254</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>	<p style="text-align: right;">Page 256</p> <p>1 -- telephonic conversations with anybody at</p> <p>2 Wavemaker with respect to verifying the accuracy</p> <p>3 of your interrogatory responses?</p> <p>4 MR. MCBIRNEY: Caution the witness to</p> <p>5 make sure you're not divulging information that</p> <p>6 is unrelated to the interrogatories that is</p> <p>7 privileged.</p> <p>8 THE WITNESS: Can you ask the question</p> <p>9 again?</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Did you have any telephonic</p> <p>12 conversations with anybody at Wavemaker that</p> <p>13 pertained to your verifying the accuracy of</p> <p>14 information provided in interrogatory responses?</p> <p>15 MR. MCBIRNEY: And that's a yes or no</p> <p>16 question.</p> <p>17 THE WITNESS: I did not have</p> <p>18 conversations to verify accuracy of interrogatory</p> <p>19 responses, to my recollection.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Okay. Did you have any other form</p> <p>22 of communication with anybody at Wavemaker</p> <p>23 pertaining to the accuracy of information</p> <p>24 provided in interrogatory responses?</p> <p>25 MR. MCBIRNEY: And, again, caution the</p>
<p style="text-align: right;">Page 255</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Any other information that you requested</p> <p>21 from Wavemaker that you can recall with respect</p> <p>22 to preparing your interrogatory responses and</p> <p>23 verifying their accuracy?</p> <p>24 A. No. I can't recall any additional.</p> <p>25 Q. Okay. Did you have any conver</p>	<p style="text-align: right;">Page 257</p> <p>1 witness not to divulge privileged information.</p> <p>2 THE WITNESS: Yeah. Outside of the</p> <p>3 privileged information, I -- I don't believe I</p> <p>4 can answer that question.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. How about VMLY&R, did you have any</p> <p>7 communications in any form with anybody at that</p> <p>8 agency pertaining to the accuracy of information</p> <p>9 provided in interrogatory responses?</p> <p>10 MR. MCBIRNEY: Same caution to the</p> <p>11 witness. If you're confused about privilege</p> <p>12 issues, we can take a break.</p> <p>13 THE WITNESS: Let's take a break,</p> <p>14 because I want to make sure that I can answer the</p> <p>15 question, if I can. But I want to make sure I</p> <p>16 understand what would be covered.</p> <p>17 MR. MCBIRNEY: Okay. Yeah. Let's take</p> <p>18 a quick break.</p> <p>19 THE VIDEOGRAPHER: Time is 6:21 p.m.</p> <p>20 We're off the record.</p> <p>21 (Recess taken.)</p> <p>22 THE VIDEOGRAPHER: The time is 6:33 p.m.</p> <p>23 We're on the record.</p> <p>24 BY MS. GOODMAN:</p> <p>25 Q. Mr. Owens, did you have any</p>

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<p style="text-align: right;">Page 258</p> <p>1 conversations in any form with anybody at</p> <p>2 VMLY&R pertaining to the accuracy of information</p> <p>3 provided in interrogatory responses?</p> <p>4 MR. MCBIRNEY: I'm going to object to</p> <p>5 that as calling for privileged information, and I</p> <p>6 believe the witness has something he'd like to</p> <p>7 clarify.</p> <p>8 THE WITNESS: Yeah. I would like to</p> <p>9 clarify that for the past few questions you've</p> <p>10 been asking about interrogatories, I was</p> <p>11 understanding an interrogatory to mean a question</p> <p>12 issued to me from the DOJ attorneys. So in my</p> <p>13 references to having discussions with VMLY&R,</p> <p>14 I was talking about the early data pool of</p> <p>15 information we were putting together at the</p> <p>16 beginning of this. So the official</p> <p>17 Interrogatories, now that I understand that that</p> <p>18 is a specific name given to a specific document,</p> <p>19 my answers would be different. So I -- I -- I</p> <p>20 apologize for my misunderstanding, but I think</p> <p>21 that's why everyone was confused.</p> <p>22 MR. MCBIRNEY: And based on what the</p> <p>23 witness just said, the government is going to</p> <p>24 move to strike everything from the question that</p> <p>25 occurred at Line 14 at 6:15, "Okay. What did you</p>	<p style="text-align: right;">Page 260</p> <p>1 microphone on.</p> <p>2 MR. MCBIRNEY: Oh, I'm sorry.</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 MR. MCBIRNEY: We will note that we are</p> <p>16 essentially clawing back and moving to strike all</p> <p>17 of that testimony. But with regards to your</p> <p>18 particular request for production of responsive</p> <p>19 information, we will take that request under</p> <p>20 advisement.</p> <p>21 MS. GOODMAN: Okay. So have you</p> <p>22 produced that information to us, to your</p> <p>23 knowledge, sitting here today?</p> <p>24 MR. MCBIRNEY: I'm not in a position to</p> <p>25 answer that question, but we will look into that</p>
<p style="text-align: right;">Page 259</p> <p>1 do to verify their truthfulness and accuracy," on</p> <p>2 the grounds that all responses following that</p> <p>3 were non-responsive to the questions and were</p> <p>4 privileged work product information. And we will</p> <p>5 be filing a motion, if that's not agreeable.</p> <p>6 MS. GOODMAN: It's not agreeable.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Mr. Owens, what data did Wavemaker</p> <p>9 provide you with respect to programmatic</p> <p>10 advertising?</p> <p>11 MR. MCBIRNEY: Objection. Privileged.</p> <p>12 Instruct the witness not to answer.</p> <p>13 THE WITNESS: Yeah. I'm going to follow</p> <p>14 my counsel's advice.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. Okay. Do you know whether the</p> <p>17 Department of Justice has provided that data to</p> <p>18 Google.</p> <p>19 MR. MCBIRNEY: Objection; foundation.</p> <p>20 You can answer yes or no.</p> <p>21 THE WITNESS: I'm not aware of that.</p> <p>22 BY MS. GOODMAN:</p> <p>23 Q. One way or the other?</p> <p>24 A. Right.</p> <p>25 THE VIDEOGRAPHER: Counsel, put your</p>	<p style="text-align: right;">Page 261</p> <p>1 and provide you a response.</p> <p>2 MS. GOODMAN: Okay.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. So my original question that you</p> <p>5 misunderstood is what did you do with respect</p> <p>6 to verifying the information provided in the</p> <p>7 interrogatory responses, now that you understand</p> <p>8 what I mean by that.</p> <p>9 A. I appreciate you asking me the</p> <p>10 question again now that I understand that</p> <p>11 "interrogatory" is that formal document and not</p> <p>12 just questions being asked.</p> <p>13 For the interrogatories, in our</p> <p>14 responses, we simply answered the questions as</p> <p>15 truthfully and transparent as possible and</p> <p>16 attested to that.</p> <p>17 Q. And my question to you, sir, is what did</p> <p>18 you do to make sure that the information was</p> <p>19 truthful and accurate?</p> <p>20 A. Read the question and provided a</p> <p>21 response that -- that was complete and</p> <p>22 transparent.</p> <p>23 Q. And how did you make sure that the</p> <p>24 answer was "complete and transparent"?</p> <p>25 A. By utilizing my knowledge in this role.</p>

<p style="text-align: right;">Page 262</p> <p>1 Q. Okay. So one of the questions that</p> <p>2 we asked the Navy in interrogatories that you</p> <p>3 verified was to "identify all purchases of Open</p> <p>4 Web Display Advertising that were purchased by</p> <p>5 the Navy directly from Google during the damages</p> <p>6 period," which is 2019 to 2023. So what did you</p> <p>7 do to verify the accuracy of the answer provided</p> <p>8 in response to that interrogatory?</p> <p>9 A. Directed my director of resources to go</p> <p>10 and find all the applicable documents in that</p> <p>11 time frame.</p> <p>12 Q. Okay. And did she follow your</p> <p>13 instruction?</p> <p>14 A. To the best of my knowledge, yes.</p> <p>15 Q. And then what did you do with the</p> <p>16 documents?</p> <p>17 A. Provided them to the DOJ attorneys.</p> <p>18 Q. Did you review them?</p> <p>19 A. The -- did I go to each document and</p> <p>20 review them or what -- can -- can you be more</p> <p>21 specific with the question?</p> <p>22 Q. Yes. So you've asked -- you asked</p> <p>23 your director of resources to find all of the</p> <p>24 applicable documents in the time frame. My</p> <p>25 question is did you look at them? Did you review</p>	<p style="text-align: right;">Page 264</p> <p>1 Q. Okay. Did you do anything to determine</p> <p>2 any purchases of Open Web Display Advertising for</p> <p>3 purposes of verifying the accuracy of your</p> <p>4 interrogatory responses?</p> <p>5 MR. MCBIRNEY: Objection; foundation.</p> <p>6 THE WITNESS: So any purchases of that</p> <p>7 type of advertising would have been a digital</p> <p>8 media purchase, and so it would have been</p> <p>9 included in that list of the digital media task</p> <p>10 orders.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Okay. And to the best of your</p> <p>13 recollection, do any of the digital media task</p> <p>14 orders refer to any purchases of Open Web Display</p> <p>15 Advertising?</p> <p>16 MR. MCBIRNEY: Objection to foundation.</p> <p>17 THE WITNESS: Again, without -- without</p> <p>18 having them in front of me now, I -- I wouldn't</p> <p>19 be able to -- to -- to say.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. Okay. Well, before we talked about</p> <p>22 how you've heard the term Open Web Display</p> <p>23 Advertising. Have you heard -- have you seen</p> <p>24 that term in the course of reviewing any task</p> <p>25 orders for media purchases under the VMLY&R</p>
<p style="text-align: right;">Page 263</p> <p>1 them before verifying the accuracy of your</p> <p>2 interrogatory responses?</p> <p>3 A. I reviewed the list of documents. I did</p> <p>4 not go to each document and review the internals</p> <p>5 of that document, but the document itself.</p> <p>6 Q. What was on the list of documents?</p> <p>7 A. Sitting here today, I don't recall.</p> <p>8 Q. What's your best recollection of what</p> <p>9 was on that list of documents?</p> <p>10 MR. MCBIRNEY: Objection. The document</p> <p>11 speaks for itself. Are we referring to the list</p> <p>12 on the interrogatories?</p> <p>13 MS. GOODMAN: No. He's testifying</p> <p>14 that an individual provided him with a list of</p> <p>15 documents, and I'm asking what was on that list.</p> <p>16 THE WITNESS: Sure. To the best of my</p> <p>17 recollection, it was a list of all of the digital</p> <p>18 media task orders.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Okay. Did you review any other</p> <p>21 documents in order to verify the accuracy of the</p> <p>22 information provided in the Navy's interrogatory</p> <p>23 responses?</p> <p>24 A. I can't recall specifically without</p> <p>25 having the document in front of me.</p>	<p style="text-align: right;">Page 265</p> <p>1 contract?</p> <p>2 MR. MCBIRNEY: Objection; foundation.</p> <p>3 Asked and answered.</p> <p>4 THE WITNESS: Yeah. And sitting here</p> <p>5 today, I -- I don't recall.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Okay. What, if anything, did you do to</p> <p>8 identify all amounts of money paid by the Navy to</p> <p>9 Google for purposes of verifying the accuracy of</p> <p>10 the Navy's interrogatory responses?</p> <p>11 MR. MCBIRNEY: Objection; foundation.</p> <p>12 THE WITNESS: I spoke with my director</p> <p>13 of resources and ensured that all digital media</p> <p>14 task orders that were applicable were included on</p> <p>15 the list.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Okay. But we've talked about the task</p> <p>18 orders. They don't actually effectuate any</p> <p>19 purchase, correct? They just set a ceiling for</p> <p>20 the amount of digital -- money that could be</p> <p>21 spent on digital advertising. Is that fair?</p> <p>22 MR. MCBIRNEY: Objection. Asked and</p> <p>23 answered.</p> <p>24 THE WITNESS: It's -- so it gives the</p> <p>25 authority to the agency to spend that amount on</p>

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<p>1 digital advertising.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. And -- but it does not, therefore, state</p> <p>4 any amount of money paid by the Navy to Google,</p> <p>5 correct.</p> <p>6 MR. MCBIRNEY: Objection. Asked and</p> <p>7 answered. And the document speaks for itself.</p> <p>8 THE WITNESS: The amount paid to Google</p> <p>9 would be on the invoices.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Okay. So my question to you, sir, is</p> <p>12 what, if anything, did you do with respect to</p> <p>13 determining the amounts paid by the Navy to</p> <p>14 Google for purposes of verifying your</p> <p>15 interrogatory responses?</p> <p>16 MR. MCBIRNEY: Objection. Asked and</p> <p>17 answered.</p> <p>18 THE WITNESS: I had my director of</p> <p>19 resources put that list together.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. What is "the list" you're referring to</p> <p>22 with respect to identifying the amount of money</p> <p>23 paid by the Navy to Google?</p> <p>24 A. The list of digital media task orders.</p> <p>25 Q. Okay. Did you have your director of</p>	<p>1 Q. Okay. I'm showing you my binder with</p> <p>2 this big chart of Navy documents by Bates Number.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Do you recall seeing anything</p> <p>6 like this list of documents produced to Google in</p> <p>7 this litigation as part of an interrogatory</p> <p>8 response?</p> <p>9 MR. MCBIRNEY: I'm going to object to</p> <p>10 referencing something that we're not marking for</p> <p>11 the record. The record's not going to reflect</p> <p>12 what you just showed him.</p> <p>13 MS. GOODMAN: That's my problem.</p> <p>14 THE WITNESS: Yes. I recollect seeing</p> <p>15 something similar to that.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Okay. Did you review, to your</p> <p>18 knowledge, any of the documents listed on these</p> <p>19 charts that you recalled seeing for purposes of</p> <p>20 verifying the interrogatory responses?</p> <p>21 MR. MCBIRNEY: Objection; vague and</p> <p>22 unclear what charts we're referring to.</p> <p>23 You can answer if you understand what's</p> <p>24 being asked.</p> <p>25 MS. GOODMAN: Keep your speaking</p>
Page 267	Page 269
<p>1 resources put together any list of invoices that</p> <p>2 would actually identify the amounts of money</p> <p>3 invoiced by Google?</p> <p>4 MR. MCBIRNEY: Object to the form of the</p> <p>5 question.</p> <p>6 THE WITNESS: Sitting here today,</p> <p>7 without having the document in front of me, I</p> <p>8 can't recollect.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. When you say "that document in front of</p> <p>11 me," which document are you referring to?</p> <p>12 A. The interrogatories.</p> <p>13 Q. Okay. Do you recall reviewing</p> <p>14 interrogatory responses that list documents</p> <p>15 produced in this litigation?</p> <p>16 A. Can you ask the question again?</p> <p>17 Q. Do you recall reviewing any</p> <p>18 interrogatory responses from the Navy that</p> <p>19 provide a list, by Bates Number, of documents</p> <p>20 that were produced in this litigation?</p> <p>21 A. I don't know what a Bates Number is.</p> <p>22 Q. It's that little number at the bottom of</p> <p>23 the document that identifies it.</p> <p>24 A. I -- I can't recollect without seeing</p> <p>25 the document.</p>	<p>1 objections out. Just object to form and move on.</p> <p>2 THE WITNESS: So I do not recall going</p> <p>3 to each of those individual documents and looking</p> <p>4 at them.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Do you recall looking at any of the</p> <p>7 documents listed on the interrogatory responses</p> <p>8 prior to verifying the accuracy of the</p> <p>9 interrogatory responses?</p> <p>10 A. I recall reviewing the interrogatory</p> <p>11 responses, but I did not go to each individual</p> <p>12 item on there to -- to open it up.</p> <p>13 Q. Did you look at any sampling of</p> <p>14 item -- of any sample of documents listed on</p> <p>15 interrogatory responses prior to verifying the</p> <p>16 accuracy of them?</p> <p>17 MR. MCBIRNEY: Objection. Assumes facts</p> <p>18 not in evidence.</p> <p>19 THE WITNESS: I relied on my experts in</p> <p>20 my resources division to put that together.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. So is it your testimony that the experts</p> <p>23 in your resources division provide -- put</p> <p>24 together a list of documents to put in</p> <p>25 interrogatory responses?</p>

<p style="text-align: right;">Page 270</p> <p>1 MR. MCBIRNEY: Objection. Again, he</p> <p>2 doesn't -- he has no documents in front of him.</p> <p>3 I -- I don't know what you're asking him about.</p> <p>4 This is confusing.</p> <p>5 It's not even clear there is a list that</p> <p>6 he's referring to. So if you want to show him a</p> <p>7 document, you can ask him questions about the</p> <p>8 document. At this point he has no idea what</p> <p>9 you're asking about.</p> <p>10 THE WITNESS: Yeah. I --</p> <p>11 MS. GOODMAN: Please do not coach the</p> <p>12 witness.</p> <p>13 MR. MCBIRNEY: I'm not coaching the</p> <p>14 witness. You are trying to create a confusing</p> <p>15 record --</p> <p>16 MS. GOODMAN: That's my problem.</p> <p>17 MR. MCBIRNEY: -- by asking questions</p> <p>18 about a document that you're not putting in front</p> <p>19 of him. So we don't know what you're talking</p> <p>20 about here.</p> <p>21 MS. GOODMAN: Okay.</p> <p>22 THE WITNESS: Yeah. Again, I don't know</p> <p>23 without looking at the document in front of me</p> <p>24 what exactly you're asking about.</p> <p>25 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 272</p> <p>1 advertising campaigns for which the United</p> <p>2 States may seek damages in this action."</p> <p>3 What, if anything, did you do to</p> <p>4 determine the task order numbers for which the</p> <p>5 United States may seek damages in this action?</p> <p>6 MR. MCBIRNEY: Objection. Assumes facts</p> <p>7 not in evidence. Calls for speculation.</p> <p>8 THE WITNESS: I ensured that my</p> <p>9 resources division put together a list of all</p> <p>10 task orders that were requested of us that met</p> <p>11 the criteria we were requesting.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. What met the criteria requested?</p> <p>14 A. I -- I don't recall the exact time</p> <p>15 frames, but the -- the time frame criteria.</p> <p>16 Q. Any other criteria?</p> <p>17 A. Not that I can recollect.</p> <p>18 Q. Okay. Another question we asked the</p> <p>19 Navy is to identify any account IDs associated</p> <p>20 with any account used to purchase display</p> <p>21 advertising on behalf of the Navy. What steps</p> <p>22 did you do -- did you take, if any, to identify</p> <p>23 account IDs associated with any account used to</p> <p>24 purchase display advertising on behalf of the</p> <p>25 Navy?</p>
<p style="text-align: right;">Page 271</p> <p>1 Q. Okay. To your knowledge, did anybody</p> <p>2 within your resources division put together a</p> <p>3 list of documents, beyond the task orders for</p> <p>4 media purchases, for use in interrogatory</p> <p>5 responses?</p> <p>6 A. Not to my knowledge.</p> <p>7 Q. Okay. Do you know what media task</p> <p>8 orders the United States is seeking damages for</p> <p>9 in this litigation vis-a-vis the Navy?</p> <p>10 MR. MCBIRNEY: Objection; vague.</p> <p>11 Foundation.</p> <p>12 You could answer to the extent it does</p> <p>13 not involve divulging confidential communications</p> <p>14 with counsel.</p> <p>15 THE WITNESS: I can't answer that</p> <p>16 question outside of divulging con -- privileged</p> <p>17 communications.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Okay. So one of the interrogatories</p> <p>20 we asked the Navy, and that you verified, is to</p> <p>21 identify each campaign forming the basis of your</p> <p>22 claim for damages. And in response to that</p> <p>23 interrogatory you verified a list of task order</p> <p>24 numbers. And the document states that, "Below</p> <p>25 is a list of task order numbers for the Navy's</p>	<p style="text-align: right;">Page 273</p> <p>1 MR. MCBIRNEY: Same objections.</p> <p>2 THE WITNESS: Yeah. With -- without the</p> <p>3 document in front of me, I can't recollect.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Okay. Well, I'll represent to you that</p> <p>6 no account IDs are listed in this interrogatory</p> <p>7 response on behalf of the Navy. And so my</p> <p>8 question to you, sir, is what did you do, if</p> <p>9 anything, to identify any account IDs?</p> <p>10 MR. MCBIRNEY: Objection. Assumes facts</p> <p>11 and asked and answered. And I again object to</p> <p>12 the witness being questioned without access to</p> <p>13 the document.</p> <p>14 THE WITNESS: Yeah. Again, I can't</p> <p>15 recollect.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Do you recall doing anything to identify</p> <p>18 account IDs?</p> <p>19 MR. MCBIRNEY: Same objections.</p> <p>20 THE WITNESS: I -- I can't recollect</p> <p>21 what was done.</p> <p>22 BY MS. GOODMAN:</p> <p>23 Q. And when you say "what was done," are</p> <p>24 you referring to your own actions or somebody</p> <p>25 else?</p>

<p style="text-align: right;">Page 274</p> <p>1 A. I'm referring to my personal actions.</p> <p>2 Q. Okay. Did you have any conversations</p> <p>3 with Mr. Edmondson at VMLY&R, or Sandra Mouio</p> <p>4 at Wavemaker, with respect to identifying any</p> <p>5 account IDs associated with the purchase of</p> <p>6 advertising on the behalf of the Navy?</p> <p>7 MR. MCBIRNEY: Instruct the witness</p> <p>8 not to answer to the extent it would divulge</p> <p>9 privileged information.</p> <p>10 THE WITNESS: I'm going to listen to my</p> <p>11 counsel.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. You can't answer that question without</p> <p>14 relying on conversations with counsel?</p> <p>15 A. I cannot answer that question without</p> <p>16 divulging information that's privileged</p> <p>17 communications with counsel.</p> <p>18 Q. And what are the privileged</p> <p>19 communications that -- that you're recollecting?</p> <p>20 MR. MCBIRNEY: Objection. Instruct not</p> <p>21 to answer.</p> <p>22 THE WITNESS: I'm going to listen to my</p> <p>23 counsel.</p> <p>24 MS. GOODMAN: Okay.</p> <p>25 (Whereupon Mr. McBirney's realtime feed</p>	<p style="text-align: right;">Page 276</p> <p>1 threshold.</p> <p>2 Q. Okay. Same question as to Adelina</p> <p>3 Lozzi. What relevant knowledge does Ms. Lozzi</p> <p>4 have with respect to any damages that the Navy is</p> <p>5 seeking in this litigation?</p> <p>6 A. So as mentioned previously, Ms. Lozzi,</p> <p>7 or Lozzi, is the warranted contracting officer at</p> <p>8 FLC who writes the contracts above that</p> <p>9 threshold.</p> <p>10 Q. Do Ms. Lozzi or Ms. Aimestillman have</p> <p>11 any knowledge of amounts paid via invoices to</p> <p>12 Google?</p> <p>13 A. Yes. Ms. Cheryl helps to manage the</p> <p>14 invoicing process, as well, as they come in.</p> <p>15 Q. How about Ms. Lozzi?</p> <p>16 A. I can't speak on Ms. Lozzi's processes</p> <p>17 because she's at a different command.</p> <p>18 Q. Kevin Clausen, what knowledge does he</p> <p>19 have relevant to damages?</p> <p>20 A. He is the supervisor of Ms. Lozzi, I</p> <p>21 believe.</p> <p>22 Q. Anything else that you can</p> <p>23 test -- testify to, to your knowledge, about</p> <p>24 Mr. Clausen and his visibility into any damages</p> <p>25 incurred by the Navy?</p>
<p style="text-align: right;">Page 275</p> <p>1 was interrupted.)</p> <p>2 MR. MCBIRNEY: Did it freeze?</p> <p>3 THE REPORTER: Hit the red "reconnect."</p> <p>4 MR. MCBIRNEY: I don't see a red</p> <p>5 "reconnect."</p> <p>6 MS. GOODMAN: Top right.</p> <p>7 THE REPORTER: I'm sorry.</p> <p>8 Oh ...</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Mr. Owens, what -- so another question</p> <p>11 we asked the Navy in their interrogatories was to</p> <p>12 provide a computation of damages that the Navy</p> <p>13 seeks in the course of this litigation. And the</p> <p>14 answer that you verified provides a table of the</p> <p>15 names and email addresses of individuals with</p> <p>16 relevant knowledge at the Navy, okay? And you're</p> <p>17 on that list. And my question to you, sir, is</p> <p>18 what relevant knowledge does Cheryl Aimestillman</p> <p>19 have with respect to any damages that the Navy</p> <p>20 seeks in this litigation?</p> <p>21 A. Cheryl Aimestillman works in my</p> <p>22 resources division, and she holds a warrant as</p> <p>23 a -- to write contracts, as well. Previously</p> <p>24 when I mentioned that threshold, she's the one</p> <p>25 that can write contracts for NRC below a certain</p>	<p style="text-align: right;">Page 277</p> <p>1 A. Not that I can think of, no.</p> <p>2 Q. Okay. Bridget Blaney, what relevant</p> <p>3 knowledge does she have with respect to any</p> <p>4 damages incurred by the Navy?</p> <p>5 A. It's my understanding that Ms. Blaney</p> <p>6 had a warrant to write contracts in excess of</p> <p>7 a threshold that Ms. Lozzi couldn't. So,</p> <p>8 basically, if it surpassed a certain threshold,</p> <p>9 then Ms. Blaney would write the contract.</p> <p>10 Q. So she has control over the most money?</p> <p>11 A. So to speak.</p> <p>12 Q. Okay. Any other relevant knowledge</p> <p>13 you're aware of Ms. Blaney having with respect to</p> <p>14 damages?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Okay. Another question that we asked</p> <p>17 was all -- to identify all persons who provided</p> <p>18 information that assisted in responding to these</p> <p>19 interrogatories. You're the only individual</p> <p>20 listed. Is that accurate?</p> <p>21 MR. MCBIRNEY: Objection. Document</p> <p>22 speaks for itself, and vague.</p> <p>23 THE WITNESS: Can you ask the question</p> <p>24 again?</p> <p>25 BY MS. GOODMAN:</p>

<p style="text-align: right;">Page 278</p> <p>1 Q. Other than yourself, was there</p> <p>2 any person who is not a lawyer who provided</p> <p>3 information that assisted in responding to the</p> <p>4 interrogatories that you verified?</p> <p>5 MR. MCBIRNEY: Objection to foundation.</p> <p>6 THE WITNESS: Yeah. As I -- as I</p> <p>7 testified earlier, I did have members of my</p> <p>8 team assist me in providing my response to the</p> <p>9 interrogatories.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Okay. Anybody outside of members of</p> <p>12 your team assist in providing information to help</p> <p>13 in res -- responding to the interrogatories?</p> <p>14 MR. MCBIRNEY: Same objection.</p> <p>15 THE WITNESS: Not that I recall.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Anybody at Wavemaker provide information</p> <p>18 that assisted in responding to these</p> <p>19 interrogatories?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Same question as to VMLY&R.</p> <p>22 A. Not that I recall.</p> <p>23 Q. Did Mr. Edmondson provide any</p> <p>24 information that was -- that assisted in</p> <p>25 responding to the interrogatories that you</p>	<p style="text-align: right;">Page 280</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I do hereby certify that I am a Notary</p> <p>4 Public in good standing, that the aforesaid</p> <p>5 testimony was taken before me, pursuant to</p> <p>6 notice, at the time and place indicated; that</p> <p>7 said deponent was by me duly sworn to tell the</p> <p>8 truth, the whole truth, and nothing but the</p> <p>9 truth; that the testimony of said deponent was</p> <p>10 correctly recorded in machine shorthand by me and</p> <p>11 thereafter transcribed under my supervision with</p> <p>12 computer-aided transcription; that the deposition</p> <p>13 is a true and correct record of the testimony</p> <p>14 given by the witness; and that I am neither of</p> <p>15 counsel nor kin to any party in said action, nor</p> <p>16 interested in the outcome thereof.</p> <p>17</p> <p>18 WITNESS my hand and official seal this</p> <p>19 17th day of</p> <p>20 </p> <p>21</p> <p>22 Notary Public</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 279</p> <p>1 verified?</p> <p>2 A. I would consider him to be covered under</p> <p>3 the question of VMLY&R, so not that I recall.</p> <p>4 Q. Same question as to Sandra Mouio?</p> <p>5 A. And same response. I would consider her</p> <p>6 to be part of the Wavemaker entity, so not that I</p> <p>7 recall.</p> <p>8 MR. MCBIRNEY: Can I get a check on the</p> <p>9 time?</p> <p>10 THE VIDEOGRAPHER: 7:02.</p> <p>11 MR. MCBIRNEY: I guess that's time.</p> <p>12 MS. GOODMAN: Thank you for your time,</p> <p>13 Mr. Owens.</p> <p>14 THE VIDEOGRAPHER: Off the record,</p> <p>15 Counsel?</p> <p>16 MS. GOODMAN: Yes.</p> <p>17 MR. MCBIRNEY: Off the record.</p> <p>18 THE VIDEOGRAPHER: The time is 7:03 p.m.</p> <p>19 We're off the record.</p> <p>20 (Deposition concluded -- 7:02 p.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 281</p> <p>1 Jimmy McBirney, Esq.</p> <p>2 jimmy.mcbirney@usdoj.gov</p> <p>3 August 17, 2023</p> <p>4 RE: United States, Et Al v. Google, LLC</p> <p>5 8/15/2023, Allen Owens (#6037511)</p> <p>6 The above-referenced transcript is available for</p> <p>7 review.</p> <p>8 Within the applicable timeframe, the witness should</p> <p>9 read the testimony to verify its accuracy. If there are</p> <p>10 any changes, the witness should note those with the</p> <p>11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of</p> <p>13 Deponent and Errata and return to the deposing attorney.</p> <p>14 Copies should be sent to all counsel, and to Veritext at</p> <p>15 erratas-cs@veritext.com</p> <p>16</p> <p>17 Return completed errata within 30 days from</p> <p>18 receipt of testimony.</p> <p>19 If the witness fails to do so within the time</p> <p>20 allotted, the transcript may be used as if signed.</p> <p>21</p> <p>22 Yours,</p> <p>23 Veritext Legal Solutions</p> <p>24</p> <p>25</p>